NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.206
IA/371(MP)2023
in
TP 161 of 2019 [CP(IB) 19 of 2017]

Order under Section Rule 11

IN THE MATTER OF:

Vitol SA **........Applicant**
V/s
Abhishek Nagori, Liquidator of Asian Natural Resources (India) Ltd (Formerly Bhatia International Ltd) **........Respondent**

Coram:

Hon'ble Shri Brajendra Mani Tripathi, Member (J)
Hon'ble Shri Man Mohan Gupta Member (T)

PRONOUNCEMENT OF ORDER
Delivered on 27/07/2026

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/- Sd/-

MAN MOHAN GUPTA
MEMBER (TECHNICAL)

BRAJENDRA MANI TRIPATHI
MEMBER (JUDICIAL)

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NATIONAL COMPANY LAW TRIBUNAL

BENCH AT INDORE

IA/371(MP)2023
IN
TP NO. 161 OF 2019 [CP(IB)/19/7/AHM/2017]
[*An Application filed under Section 60(5)(c) of the IBC, 2016*]

Vittol S.A.,
Boulevard du Pont d'Arve 28,
CH 1205 Geneva, Switzerland **......Applicant/ Stakeholder**

V/s

ASIAN NATURAL RESOURCES (INDIA) LIMITED
(Formerly Bhatia International Limited)
(Through its Liquidator Mr. Abhishek Nagori)
Regn. No. IBBI/IPA-001/IP-P00020/2016-2017/10044
C/o. JLN US & Company, 330/348, Third Floor, Tower-A,
Atlantis K-10, Opp. Vadodara Central, Sarabhai Main Road,
Vadodara – 390007

SURINDER SINGH BHATIA
S/o Mr. Kripal Singh Bhatia,
residing at Flat No. 801, 8th Floor, Le Orchid,
15th Road, Khar (West), Mumbai – 400052

GURVINDER SINGH BHATIA
S/o Mr. Kripal Singh Bhatia
Residing at Plot No. 1, 2, 3, 4, Aditya Nagar,
Vishnupuri Colony, Indore – 452001

MANJEET SINGH BHATIA
S/o Mr. Kripal Singh Bhatia
53, Gajanand Mandir Colony, Chandrapur,
Maharashtra – 442401

AMANDEEP SINGH BHATIA
S/o Gurvinder Singh Bhatia
Residing at Plot No. 1, 2, 3, 4, Aditya Nagar,
Vishnupuri Colony, Indore – 452001 **...Respondents**

Coram: Brajendra Mani Tripathi, Hon'ble Member (J)
Man Mohan Gupta, Hon'ble Member (T)

Order Pronounced On 27.07.2026

Appearance:

For the Applicant	: Mr. Saurabh Soparkar, Adv a.w. Mr. Aditya Krishnamurthy, Mr. Harsh Bhagirath Ruch, Adv Mr. Nitin Sujan Jain, Adv Mr. Ashutosh Tiwari, Adv & Ms. Johana George, Adv
For the Liquidator	: Mr. Nipun Singhvi, Adv a.w. Ms. Pragati Tiwari, Adv & Mr. Rahul Bhavsar, Adv
For the Respondent	: Ms. Vaidehi Khatri, Proxy Adv i/b Mr. Arjun Sheth, Adv Mr. Satish Agrawal, Adv

ORDER

1. This is an Application under Section 60(5) of the IBC, 2016, with the following prayers:

   a) *That this Ld. Adjudicating Authority be pleased to direct the Liquidator of the Corporate Debtor to disregard the conclusions set out in the KPMG Final Forensic Report and appoint an alternate Forensic Auditor (in substitution of KPMG) to investigate transactions entered by the Corporate Debtor for a period between 1st April 2008 to 23rd May 2017 which have been mentioned in (1) the KPMG Interim Forensic Report, (2) the Nicholas-Good Report and (3) Judgment dated 5th October 2015 in Chamber Summon (L) No. 444 of 2015 passed by the Ld. Single Judge of* *the Bombay High Court which has been upheld by order dated 29th September 2016 in Appeal (L) No. 797 of 2015 by the Ld. Division Bench of the Bombay High Court.*

The Applicant's case in brief:

The present Interlocutory Application ("IA") has been filed under Sections 60(5)(c) of the Insolvency and Bankruptcy Code, 2016 ("IBC"), arising in the liquidation proceedings of Asian Natural Resources (India) Limited, formerly known as Bhatia International Limited ("BIL"/"Corporate Debtor"). The Applicant/Stakeholder is Vitol S.A., a company registered in Geneva, Switzerland. The original Petitioner/Financial Creditor in the main Company Petition is IDBI Bank Limited. The Corporate Debtor, BIL, is represented through its Liquidator, Mr. Abhishek Nagori. The Application is affirmed through a General Affidavit sworn by Mr. Anil Shamrao Jadhav, the Constituted Attorney of the Applicant, duly authorised by Mr. William D. Leneville, Director of Vitol, and is dated 25.10.2023.

Vitol is stated to be the largest creditor of BIL, holding a claim exceeding Rs. 536 Crores against the liquidation estate. This claim arises from a London arbitral award which has since merged into a deemed decree of the Bombay High Court, giving Vitol a substantial financial stake in ensuring a proper and complete investigation into the affairs of the Corporate Debtor prior to liquidation.

Background — Pre-Insolvency Litigation and Findings of Fraud

Before the commencement of insolvency proceedings against BIL on 23.05.2017, Vitol had, since September 2012 (before Singapore courts) and August 2013 (before Indian courts), alleged that BIL's management was siphoning off and fraudulently hiving off the company's assets to defeat execution of the London arbitral award. These allegations were judicially examined and accepted: the Learned Single Judge of the Bombay High Court, by order dated 5th October 2015 in Chamber Summons (L) No. 444 of 2015, and the Division Bench of the Bombay High Court, by order dated 29th September 2016 in Appeal (L) No. 797 of 2015, both recorded reasoned findings that BIL's coal trading business, valued at Rs. 180 Crores, had been fraudulently hived off to its sister concern, Bhatia Global Trading Limited ("BGTL"), for an undervalued/illusory consideration under a purported Business Transfer Agreement ("BTA"), and that the transaction was a sham.

The Bombay High Court also issued an arrest warrant against Mr. Surinder Singh Bhatia, promoter of BIL, by order dated 12.10.2015 in Chamber Summons (L) No. 415 of 2015, for his failure to appear and answer questions regarding the siphoning of BIL's assets. Thereafter, by order dated 11.01.2016 in Chamber Summons No. 1447 of 2015 in Execution Application No. 240 of 2011, a Court Commissioner was appointed to record Mr. Bhatia's cross-examination under Order XXI Rule 41 CPC, 1908. Between 5.02.2016 and 24.05.2016, Mr. Bhatia is recorded as having been evasive and having refused to answer several specific questions

(Q.Nos. 183-202, 295-324, 336 and 343) put to him regarding the impugned transactions.

Post-Insolvency Proceedings Before the Adjudicating Authority

After commencement of insolvency proceedings on 23.05.2017, Vitol instituted IA No. 230 of 2017 before the Adjudicating Authority, bringing the above acts of fraud and malfeasance to its attention. By order dated 6.11.2017 ("Earlier 2017 Order"), Vitol was granted leave to approach the Adjudicating Authority again if the Resolution Professional/Liquidator failed to take necessary action. Despite this, the Liquidator is stated to have taken no substantive steps to comply, notwithstanding eight successive written reminders sent between 14.11.2017 and 9.07.2020, save for a purportedly perfunctory engagement of M/s KPMG Assurance and Consulting Services LLP ("KPMG") to conduct a forensic audit.

On account of this inaction, Vitol instituted IA No. 287 of 2018 (the "Personal Contribution Application"), seeking orders against the erstwhile promoters/suspended management of BIL for personal contribution to the liquidation estate. Separately, the Liquidator filed IA No. 458/2018 (the "Liquidator's Clarificatory Application") on 30.10.2018, seeking clarity on whether he could investigate transactions predating the two-year look-back period. By order dated 29.05.2020, the Adjudicating Authority clarified that the Liquidator was permitted to investigate transactions from 1.04.2008 to 23.05.2017 (the insolvency commencement date). This order was upheld by the Appellate Authority (NCLAT) on

28.11.2022 in CA (AT)(Ins) No. 671/2020, dismissing the suspended management's appeal.

The KPMG Interim Forensic Report (Preliminary Findings of Fraud)

On 5th November 2020, the Liquidator placed on record, via an Additional Affidavit in IA 104/2020, an Interim Draft Forensic Report dated 30th September 2020 prepared by KPMG ("KPMG Interim Report"). The Interim Report made preliminary findings of fraud in respect of several transactions, summarised below:

- Sale of BIL's coal trading undertaking to BGTL for a purported consideration of Rs. 180 Crores, paid partly through equity shares of BGTL issued to BIL at a steep premium; the same class of shares were, shortly thereafter, issued to the promoter-linked entity Bhatia Sons (India) Limited at face value alone — resulting in an estimated Rs. 155.86 Crores worth of assets being transferred for no real consideration.
- Sale of BIL's coal washeries undertaking to Bhatia Coal Washeries Limited ("BCWL") for a purported consideration of Rs. 74.5 Crores, following an identical pattern of premium-priced shares issued to BIL followed by face-value shares issued to Bhatia Sons — resulting in an estimated Rs. 74.5 Crores of assets transferred for no real consideration.
- Transfer of overseas shipping assets, held through BIL's wholly-owned subsidiary Ishar Overseas FZE, UAE ("IOF"), to another wholly-owned subsidiary, Bhatia International Pte Ltd, Singapore ("BIPL"), followed by dilution of BIL's effective

stake in BIPL from 100% to 5% — a transaction through which assets worth approximately USD 85.52 Million (~Rs. 633 Crores) are alleged to have moved out of the group for negligible consideration (from USD 85.82 Million to USD 0.4 Million within about three months).

- Sale of BIL's immovable property at Orbit Plaza, Prabhadevi, Mumbai for Rs. 12 lakhs, against a ready-reckoner value of Rs. 4.77 Crores, to Mrs. Lakshmi Pradeep Mittal — the mother of the directors of BIL Planet Resources Pvt Ltd (now Lukal Resources Pvt Ltd), an entity with prior dealings with BIL.

Deposition of Mr. S.S. Bhatia

The Application extensively relies on the cross-examination of Mr. S.S. Bhatia (promoter and former Vice Chairman of BIL) recorded before the Court-appointed Commissioner. In response to pointed questions regarding the pricing disparities in the BGTL, BCWL and IOF/BIPL transactions, and his role as director across the relevant group entities, Mr. Bhatia repeatedly stated that he did not recollect the transactions, figures or reasons, describing them broadly as commercial decisions taken on professional advice in view of prevailing market conditions, without offering specifics.

The KPMG Final Forensic Report and its Contradiction of the Interim Findings

By Affidavit dated 6th November 2023 in IA 287/2018, the Liquidator placed on record KPMG's Final Forensic Audit Report dated 3rd August 2023 ("KPMG Final Report"). Notably, the Final Report confined its review to the period FY 2011-12 onward — i.e., six years prior to the insolvency commencement date — and concluded that no evidence was found to suggest that the transactions were fraudulent, while also stating that its views were not binding on any person, entity, authority or court.

The Applicant contends that the Final Report represents an unexplained volte-face from the Interim Report, and has raised the following principal objections:

- The six-year look-back period adopted is arbitrary and directly disregards the Adjudicating Authority's order dated 29th May 2020 in IA 458/2018 (upheld by the NCLAT on 28th November 2022), which had expressly permitted investigation of transactions from 1st April 2008 onward — a period covering the bulk of the impugned transactions.
- The Final Report fails to engage with the binding findings of fraud recorded by the Bombay High Court (Single Judge and Division Bench) concerning the BGTL transaction.
- The Final Report omits any reference to the sale of BIL's Mumbai property at a fraction of its ready-reckoner value, a fact that had been flagged in the Interim Report.
- The Final Report remains silent/evasive on whether the share consideration received in the restructurings was of equivalent value to the assets transferred.
- The Final Report does not engage with Mr. S.S. Bhatia's inability to provide coherent answers in his deposition regarding the pricing anomalies.

The Nicholas-Good Advisory Report

To further substantiate these objections, Vitol engaged Mr. Nicholas Good of Evelyn Partners LLP, UK, a forensic audit expert, who issued an Advisory Note dated 23.10.2023 ("Nicholas-Good Report") critiquing the KPMG Final Report. The Nicholas-Good Report's central thesis is that the core question — whether the share consideration received in the BGTL/BCWL and IOF/BIPL restructurings was of equivalent value to the assets transferred — was left unaddressed. It notes that both sets of assets were transferred at accounting book value rather than market valuation; that KPMG India did not adequately explain the disparity between the prices paid by BIL/IOF and the markedly lower prices at which similar shares were subsequently issued to Bhatia-family-linked entities; that the shareholdings ultimately retained by BIL in the restructured entities were disproportionate to its contribution; and that, in contrast, the Bhatia family and its affiliated entities ended up with disproportionately large shareholdings without any assessment by KPMG of whether this outcome was reasonable or logical.

Submissions on behalf of Respondent No. 1/Liquidator

Learned counsel for Respondent No. 1/Liquidator submitted that the present application is misconceived, devoid of merit, and deserves to be dismissed. It was submitted that Corporate Insolvency Resolution Process against the Corporate Debtor was initiated on the application of IDBI Bank and admitted by this Tribunal on 23.05.2017, and that liquidation was thereafter ordered on 09.02.2018 pursuant to the decision of the Committee of Creditors, with Mr. Abhishek Nagori appointed as Liquidator. It was submitted that upon going through the limited documents/records available with him, the Liquidator formed an opinion that a transaction-based forensic audit of the Corporate Debtor was necessary and, exercising his powers under Sections 35, 43, 45, 49, 50 and 66 of the Code, appointed the reputed firm M/s KPMG on 09.07.2018 as forensic auditor, after calling for Expressions of Interest and with the approval of the Committee of Creditors, to bring to light any dubious, fraudulent, undervalued or extortionate transactions entered into between the Corporate Debtor and its promoters or group entities. It was submitted that as KPMG required documents and information dating back to 01.04.2008 to complete the forensic audit, the Liquidator wrote to the ex-directors — Mr. Khalid Baigh, Mr. Amardeep Singh Bhatia and Mr. Gaurav Agarwal — on 21.07.2018 and 26.07.2018 seeking the requisite records in respect of nine identified transactions relating to Financial Years 2009-10 to 2013-14; however, vide reply dated 14.08.2018, the suspended board declined to furnish documents/information for the period beyond two years prior to the insolvency commencement date of 23.05.2017, contending that the Liquidator had no authority to investigate or seek information regarding transactions falling outside that look-back period.

It was submitted that, faced with this refusal, the Liquidator filed IA 458 of 2018 on 27.10.2018 seeking a clarificatory direction as to whether he was entitled to scrutinise/investigate transactions executed by the Corporate Debtor beyond two years from the insolvency commencement date, and whether relevant information could accordingly be sought from the promoters and suspended board in relation to such transactions. It was submitted that this Tribunal, vide order dated 29.05.2020, allowed the said application and held that the Liquidator was permitted to investigate transactions executed beyond the two-year period, i.e., from 01.04.2008 onwards, as required by KPMG, and directed the suspended management to hand over all documents and extend full cooperation to the Liquidator. It was submitted that the suspended management's appeal against this order, being CA(AT)(Ins) No. 671 of 2020, was dismissed by the Hon'ble NCLAT vide order dated 28.11.2022, thereby conclusively affirming the Liquidator's authority to investigate the pre-look-back-period transactions. It was submitted that it was only consequent upon this dismissal that the suspended management furnished the requisite information, pursuant to which KPMG completed its Final Forensic Report dated 03.08.2023, which was placed before this Tribunal by way of the Liquidator's affidavit dated 06.11.2023 in IA 287 of 2018.

It was further submitted that the specific allegations levelled by the Applicant against the Liquidator are false, frivolous and misconceived. Responding to the Applicant's averment (at paragraph 5 of the application) that leave had been granted to the Applicant to approach this Tribunal in the event the Liquidator failed to act on the earlier order dated 06.11.2017 passed in IA 230 of 2017, it was submitted that the said order was, in fact, addressed to the then Interim Resolution Professional/Resolution

Professional and merely granted liberty to the Applicant to approach the Tribunal if the IRP/RP failed to consider the material placed by it — it cast no independent obligation on the Liquidator, who in any event has always complied with directions issued to him from time to time. Responding to the allegation (at paragraph 6) that the Applicant was compelled to institute the "Personal Contribution Application" i.e. IA 287 of 2018 owing to the Liquidator's inaction, it was denied as false and reiterated that the 2017 order created no obligation upon the Liquidator specifically. Responding to the allegation (at paragraph 7) that the Liquidator's filing of IA 458 of 2018 was a "perfunctory and insincere attempt" made belatedly to be seen to be acting, it was submitted that this allegation is bogus and misconceived, since the Liquidator discharged his duties from time to time and in accordance with law, and there was accordingly no question of non-compliance with the 2017 order.

On the central grievance of the Applicant — that the KPMG Final Forensic Report dated 03.08.2023 contradicts the preliminary findings of fraud recorded in KPMG's Interim Forensic Report dated 30.09.2020 — it was submitted that the Liquidator forwarded the Applicant's application to KPMG for its comments, and that KPMG, vide its communication dated 12.12.2023, clarified in respect of each of the transactions impugned by the Applicant — namely, the slump sale of the coal trading undertaking from BIL to BGTL, the slump sale of the coal washeries undertaking from BIL to BCWL, the transfer of overseas shipping assets from Ishar Overseas FZE (IOF) to Bhatia

International Pte Ltd (BIPL), and the sale of BIL's immovable property at Orbit Plaza, Mumbai — that the Interim Report was expressly preliminary in nature, based only on information and documents available up to September 2020, and that KPMG had itself acknowledged that its interim findings were liable to revision upon receipt of further information. It was submitted that the Final Report, prepared after the Tribunal directed the Corporate Debtor to share additional details and after the suspended management furnished the same, took into account the fuller record and concluded that no evidence was found to suggest that the transactions were fraudulent, and that the slump-sale and transfer transactions had been carried out in adherence to the approved process, supported by independent professional advice from Ernst & Young, Dua Associates and chartered accountants, and, in the case of the overseas transactions, in compliance with FEMA/ODI regulations and duly reported to the Reserve Bank of India. It was submitted that the perceived contradiction between the two reports is thus a natural consequence of the enhanced dataset available at the final stage and not an unexplained volte-face.

It was further submitted, addressing the Applicant's more detailed contentions at paragraph 10 of the application, that: the six-year look-back period adopted by KPMG (from FY 2011-12) was not arbitrary, since the appointment letter dated 09.07.2018 itself mandated an audit covering the period from 2008 onwards, and KPMG's review in fact covered transactions since 2008, with all the major impugned transactions having indisputably transpired before FY 2011-12; the Final Report additionally examined the company's broader financial position from 2011-12 to 2016-17, including decline in profit and net worth, investments, borrowings and revenue, as supplementary analysis beyond the interim draft; KPMG's role being confined to fact-finding based on information provided by the management, it did not extend to rendering legal outcomes or commenting on the findings of the Bombay High Court in Chamber Summons (L) No. 444 of 2014 and Appeal (L) No. 797 of 2015; the omission of any reference to the Mumbai property sale in the Final Report was because KPMG had reviewed the relevant documents and found them satisfactory; the adequacy of the share consideration received during restructuring was substantiated by approval and documentation certified by a chartered accountant as mandated under the Companies Act and Income Tax Act; and no response was called for in respect of the Applicant's contentions regarding Mr. S.S. Bhatia's deposition or the advisory note of Mr. Nicholas Good of Evelyn Partners LLP. It was submitted that the Final Forensic Report has since been considered and noted by the Stakeholders' Consultation Committee of the Corporate Debtor at its meeting dated 07.03.2024. It was accordingly submitted that the Liquidator has acted strictly within the framework of the Code and the Regulations made thereunder, has not suppressed or concealed any material fact, and that the application deserves to be dismissed.

Submissions on behalf of Respondents No. 2 to 5/Suspended Management

Learned counsel for Respondents No. 2 to 5/suspended management submitted that the application is misconceived and liable to be rejected. At the outset, it was submitted that all allegations, statements and averments contained in the application, contrary to or inconsistent with what was stated in the reply, stood denied, and that nothing contained in the application ought to be deemed admitted for want of specific traverse; leave was also sought to file a further and more detailed affidavit and to rely upon documents beyond those already placed on record. It was submitted that the basis on which KPMG's Interim Forensic Report dated 30.09.2020 recorded a preliminary finding of fraud is not known to the suspended management, inasmuch as no documents in relation to the transactions in question had, at that stage, been furnished by them, since those transactions were considered to fall beyond the period of two years from the insolvency commencement date of 23.05.2017.

It was submitted that the Liquidator had filed IA 458 of 2018 seeking clarification as to whether he could investigate transactions beyond the said two-year period, which application was allowed by this Tribunal vide order dated 29.05.2020 permitting the Liquidator to investigate transactions executed from 01.04.2008 onwards as required by KPMG. It was submitted that the suspended management's challenge to the said order before the Hon'ble NCLAT, being CA(AT)(Ins) No. 671 of 2020, was dismissed vide order dated 28.11.2022. It was submitted that it was only thereafter that the suspended management extended cooperation and furnished the requisite documents to KPMG to enable completion of the forensic audit, culminating in the Final Forensic Report dated 03.08.2023. It was submitted that, from this factual sequence, it stood established that the basis for KPMG's preliminary finding of fraud in the Interim Report was, in fact, unavailable to it at that stage, and could not, therefore, be relied upon by the Applicant.

It was submitted that upon consideration of the complete record so furnished, the Final Forensic Report addressed each of the transactions flagged in the Interim Report and, in each instance, concluded that the transactions had been undertaken pursuant to considered business decisions. With respect to the slump sale of the coal trading undertaking from BIL to BGTL and of the coal washeries undertaking from BIL to BCWL, it was submitted that expert advice had been sought from Ernst & Young and Dua Associates to evaluate the business opportunity, that fair valuation of the assets transferred had been carried out by a chartered accountant to ensure the consideration was reasonable and in line with market standards, and that since both BGTL and BCWL had been incurring losses from FY 2014-15 onward, the Corporate Debtor had booked an impairment loss to reflect the true and fair value of its investments — it was on this basis that KPMG concluded the slump-sale transactions were executed in adherence to the approved process. With respect to the transfer of overseas shipping assets held through Ishar Overseas FZE (IOF) to Bhatia International Pte Ltd, Singapore (BIPL), and the consequent dilution of the Corporate Debtor's shareholding in BIPL, it was submitted that the transaction was a considered strategic business decision supported by a board resolution dated 08.01.2009 and a Sale Agreement dated 18.06.2009 aimed at developing BIPL into a trading hub in Singapore, that the valuation of the BIPL shares was undertaken by T.P. Osatwal & Associates, a reputed chartered accountant firm, that the investment and subsequent sale complied with the provisions of Overseas Direct Investment and FEMA regulations, and that the transactions were duly reported to the Reserve Bank of India through its bankers.

It was accordingly submitted that KPMG's Final Forensic Report, having been prepared on this fuller and more comprehensive record, cannot be said to be in unexplained contradiction with the earlier, admittedly preliminary, Interim Report, and that the Interim Report — being based on incomplete information and expressly stated to be subject to revision — cannot be relied upon by the Applicant in preference to the Final Report. It was submitted that the Final Forensic Report has since been placed before, and noted by, the Stakeholders' Consultation Committee of the Corporate Debtor at its meeting held on 07.03.2024, a copy of the minutes whereof stands annexed to the reply as Annexure-A. It was accordingly submitted that the application, seeking appointment of an alternate forensic auditor on the basis of an alleged contradiction that stands duly explained, is devoid of merit and deserves to be dismissed.

ADDITIONAL FACTS FROM VITOL'S WRITTEN SUBMISSIONS DATED 20.03.2026

1. The Applicant contends that the KPMG Final Forensic Report dated 03.08.2023 contradicts the preliminary findings recorded in the KPMG Interim Forensic Report dated 30.09.2020 on each of the transactions flagged therein, and that no explanation has been furnished in the Final Report itself for this reversal.

2. The Applicant contends that neither the KPMG Final Report nor the subsequent KPMG Affidavit dated 02.08.2025 engages with the specific anomalies that KPMG itself had identified in the Interim Report, and that both remain silent on certain questions flagged by KPMG in its own earlier draft.

3. The Applicant relies on the judgment of the Hon'ble Supreme Court in State Bank of India v. Rajesh Agarwal for the proposition that allegations of fraud carry civil and criminal consequences and require adherence to principles of natural justice. It separately relies on a line of authorities (Prashant Bothra v. Bureau of Immigration (Cal); Amit Kumar Kejriwal v. UCO Bank (Cal); Ratul Puri v. Punjab National Bank (Del); Avantha Holding v. Union of India (Del)) for the proposition that a forensic audit report is, at best, a piece of evidence and is in no manner conclusive proof of any illegality — being merely an expert opinion for the benefit of the Adjudicating Authority. It is noted that this line of authority sits in some tension with the Applicant's principal prayer, which proceeds on the footing that the Final Report should be rejected

outright rather than merely weighed as one piece of evidence among others.

4. It is recorded that, during the hearing on 27.01.2026, counsel for the Liquidator is stated to have submitted that the Liquidator has no objection to the appointment of an alternate forensic auditor, provided the fees thereof are not borne by the Liquidator/estate. The Applicant has, by its Written Submissions dated 20.03.2026, undertaken to bear such fees, subject to a cap of Rs. 17,50,000/- (Rupees Seventeen Lakhs Fifty Thousand only), and has stated it is ready and willing to make payment.

ADDITIONAL FACTS FROM THE LIQUIDATOR'S WRITTEN SUBMISSIONS DATED 25.04.2026

The Liquidator has placed on record KPMG's e-mail dated 12.12.2023, furnished in response to a reference made by the Liquidator upon receipt of the present IA, wherein KPMG has clarified — as a general position applicable across the transactions impugned by the Applicant — that:

- The Interim Report was expressly stated to be preliminary, based only on information available up to September 2020, and expressly subject to revision upon receipt of further information;
- Specific information gaps were flagged in the Interim Report itself as necessary for reaching final conclusions;
- The Final Report was prepared only after this Tribunal directed the Corporate Debtor/Suspended Management to

furnish further material, and after such material was in fact furnished; and

- The divergence between the two reports is accordingly attributable to the enhanced dataset and the more exhaustive final-stage analysis, and does not represent an unexplained reversal.

The Liquidator has placed on record that, pursuant to this Tribunal's order dated 26.03.2025 seeking clarification as to the audit period adopted, KPMG filed an Affidavit dated 02.08.2025 with a page-wise breakdown of the Final Report, on the basis of which the Liquidator contends that the audit did, in substance, comprehensively cover the entire period from 01.04.2008, and that the "six-year look-back" characterisation urged by the Applicant does not accurately reflect the actual scope of KPMG's review.

The Liquidator has clarified that the tabular column in the record captioned "Liquidator's Reply" in fact reproduces KPMG's own clarifications forwarded by the Liquidator for completeness, and does not reflect an independent stand taken by the Liquidator; the Liquidator maintains that he has discharged his statutory obligations — appointment of an independent forensic auditor, placement of the Report before the Stakeholders' Consultation Committee (07.03.2024), and placement of the same before this Tribunal — and that there is no provision under the IBC enabling an Operational Creditor to seek appointment of a forensic auditor at this stage, while leaving it to this Tribunal to pass such directions as it deems fit if not satisfied with the Report.

ADDITIONAL FACTS FROM THE SHORT NOTES FILED ON BEHALF OF RESPONDENTS NO. 2 TO 5 DATED 13.06.2026

Respondents No. 2 to 5 contend that the Final Report, having been prepared on the complete set of documents and facts, concluded that no evidence was found to suggest that the transactions were fraudulent, and that this conclusion has since been considered and noted by the Stakeholders' Consultation Committee at its meeting dated 07.03.2024.

Respondents No. 2 to 5 contend that the Nicholas-Good Advisory Note relied upon by the Applicant to impugn the Final Report (i) is stated, on its own face, not to constitute an expert witness report, and (ii) is founded solely on material supplied by the Applicant, without independent verification of its accuracy — and submit that it is accordingly irrelevant and inconclusive and cannot be relied upon to displace the Final Report.

Respondents No. 2 to 5 dispute the Applicant's characterisation of the Liquidator's counsel's submission regarding no-objection to an alternate auditor, contending that no such statement was recorded in the proceedings or reflected in any judicial order, and that any undertaking offered by the Applicant to bear such fees is accordingly without foundation.

Respondents No. 2 to 5 also contend, as a threshold submission, that allegations of fraud carry civil and criminal consequences and that principles of natural justice required them to be impleaded and heard before any adverse finding could be recorded against them — a position given effect to by this Tribunal's order dated 19.01.2024 directing their impleadment.

OBSERVATIONS AND ANALYSIS

We have heard learned counsel for the Applicant, learned counsel for the Liquidator, and learned counsel for Respondents No. 2 to 5, and have perused the pleadings, the Written Submissions filed on behalf of the respective parties, and the material placed on record, including the KPMG Interim Forensic Report dated 30.09.2020, the KPMG Final Forensic Report dated 03.08.2023, and the Affidavit dated 02.08.2025 sworn on behalf of KPMG.

The short question that falls for our determination is whether the Liquidator ought to be directed to disregard the conclusions recorded in the KPMG Final Forensic Report, and whether an alternate forensic auditor ought to be appointed in substitution of KPMG. The sole ground pressed by the Applicant in support of this prayer is that the Final Report records conclusions at variance with those recorded in the Interim Report, without adequate explanation for the departure. In order to answer this question, we consider it appropriate to frame the issues that arise for our consideration, to answer each of them in turn, and thereafter to record our conclusion.

A. ISSUES FOR DETERMINATION

Issue No. I: Whether the forensic audit conducted by KPMG, and its scope extending to transactions between 01.04.2008 and 23.05.2017, was validly constituted and supervised, such that the Final Report can be said to be the product of a process lacking institutional legitimacy?

Issue No. II: Whether the mere divergence in conclusions between the KPMG Interim Forensic Report dated 30.09.2020 and the KPMG Final Forensic Report dated 03.08.2023, without more, is sufficient to render the Final Report unreliable and liable to be disregarded?

Issue No. III: On whom does the burden lie to demonstrate that the Final Report suffers from an infirmity sufficient to displace it, and whether that burden stands discharged by the Applicant on the material placed before us?

Issue No. IV: Whether there exists any material on record to doubt the independence of KPMG as forensic auditor, such as would justify the wholesale rejection of the Final Report and the substitution of a fresh auditor at the instance of a single stakeholder?

Issue No. V: Whether the rejection of the present Application would foreclose the Applicant's right to otherwise impugn, contest or rely upon the findings of the Interim and Final Reports in other appropriate proceedings, including IA 287/2018?

Issue No. I : Statutory character of the audit and the role of this Tribunal in fixing its scope

It requires to be noted that KPMG was appointed by the Liquidator in exercise of powers conferred under Sections 35, 43, 45, 49 and 66 of the IBC, with the approval of the Committee of Creditors, pursuant to a call for Expressions of Interest. Equally significant, the scope of the audit — specifically, its extension to transactions between 01.04.2008 and 23.05.2017 — was not left to the unilateral discretion of the Liquidator but was fixed by this Tribunal's own order dated 29.05.2020 in IA 458/2018, an order that was carried in appeal and affirmed by the Hon'ble NCLAT on 28.11.2022. The Final Report is thus the product of a statutory process conducted under this Tribunal's continuing supervision, including the further direction dated 26.03.2025 calling upon the auditor to clarify the period of review, in response to which KPMG filed its Affidavit dated 02.08.2025 with a page-wise break-up of its coverage. An audit so constituted, mandated and supervised cannot, in our view, be treated as inherently unreliable, still less as the product of a process lacking institutional legitimacy, merely on account of its divergence from an interim draft. Issue No. I is accordingly answered in favour of the Liquidator: the audit process was validly constituted and remained, at every material stage, subject to the oversight of this Tribunal and the Appellate Authority.

Issue No. II : Divergence between an interim and a final report, without more, does not establish unreliability

It is not in dispute — indeed it is common ground between the parties — that the KPMG Interim Report was, on its own terms, described as preliminary and expressly stated to be based only on the information and documents available up to September 2020, subject to revision upon receipt of further information. It is also on record that, at the interim stage, the Suspended Management had declined to furnish documents pertaining to the pre-look-back period, and that such documents came to be furnished only after this Tribunal's order dated 29.05.2020 was affirmed by the NCLAT in November 2022. In these circumstances, it would be inappropriate to treat identity of outcome between the Interim Report (admittedly based on an incomplete record) and the Final Report (based on the complete record, furnished only after prolonged resistance by the Suspended Management) as the expected or necessary state of affairs, such that any departure therefrom must be regarded with suspicion. To the contrary, a change in conclusion upon receipt of a materially fuller record is ordinarily indicative of the auditor having applied its mind afresh to the additional material, rather than evidence of infirmity in the process. We find force in the Liquidator's submission, supported by KPMG's own clarification dated 12.12.2023 and its Affidavit dated 21.08.2025, that the difference between the two reports is explained by the enhanced dataset available at the final stage, and we are not persuaded that this explanation is either inherently improbable or unsupported by the record. Issue No. II is accordingly answered against the Applicant: mere divergence between a preliminary draft and a final report, explained by a materially expanded record, does not by itself establish unreliability.

Issue No. III : The burden of demonstrating that the Final Report is unreliable lies upon the party impugning it, and has not been discharged.

The Applicant itself places reliance on a line of authorities — Prashant Bothra v. Bureau of Immigration, Amit Kumar Kejriwal v. UCO Bank, Ratul Puri v. Punjab National Bank, and Avantha Holding v. Union of India — for the settled proposition that a forensic audit report is, at best, a piece of evidence, and is in no manner conclusive proof of any illegality. We accept this proposition, but it necessarily operates both ways: if a forensic report is not to be treated as conclusive proof of guilt, it is equally not to be treated as presumptively unreliable merely because a stakeholder is dissatisfied with its conclusions, or because it happens to depart from an earlier, avowedly provisional, draft. What would be required to displace a report of this nature is some demonstrable infirmity — whether in the material placed before the auditor, in the methodology applied, or in the internal consistency of its findings — and not merely the fact that its conclusions are unfavourable to the Applicant's case. On a consideration of the record, we find that the Applicant has not identified any such infirmity going to the root of the Final Report; what has been shown, at highest, is that the Final Report reaches a different conclusion than the Interim Report on account of additional material, a circumstance already addressed under Issue No. II above and which we do not consider sufficient. We further note, in this connection, that the Advisory Note of Mr. Nicholas Good relied upon by the Applicant to impugn the Final Report is stated on its own face not to constitute an expert witness report and to be founded solely upon material furnished by the Applicant without independent verification, a fact which correspondingly diminishes the weight we are able to attach to it for the purpose of the present Application. Issue No. III is accordingly answered by holding that the burden lies upon the Applicant, as the party impugning the Final Report, and that the Applicant has failed to discharge that burden.

Issue No. IV : Independence of the auditor and the finality of the liquidation process.

We are also of the view that due weight must be given to the fact that KPMG is engaged through a competitive process and with the approval of the Committee of Creditors — a body representative of the very class of creditors to which the Applicant belongs. There is no material before us to suggest that KPMG was beholden to, or lacked independence from, the Suspended Management, nor is any such case specifically pleaded in the Application. In these circumstances, permitting the wholesale displacement of a forensic audit, at the instance of a single dissatisfied stakeholder, and the substitution of a fresh auditor of that stakeholder's own choosing (and, as proposed, at that stakeholder's expense), would set a precedent inconsistent with the finality that the liquidation process under the Code is intended to secure. If forensic audits were liable to be reopened, and fresh auditors appointed, each time their conclusions did not accord with a particular stakeholder's expectation, the liquidation process would be rendered interminable, defeating the object of time-bound resolution under the Code. Issue No. IV is accordingly answered against the Applicant: no material exists on record to doubt KPMG's independence, and no case is made out for its wholesale substitution.

Issue No. V : The Final Report remains open to be weighed on merits in other proceedings; the present order does not foreclose that inquiry.

We clarify that the findings recorded above do not have the effect of conferring conclusive or unquestionable finality upon the KPMG Final Report. Consistent with the very authorities relied upon by the Applicant, the Final Report remains a piece of evidence, to be weighed by this Tribunal along with the pleadings, the findings already recorded by the Hon'ble Bombay High Court, and such other material as may be placed on record, in the appropriate proceeding — including IA 287/2018, in which the question of personal contribution by the erstwhile promoters/Suspended Management is itself pending consideration. What we hold is only that the present Application, confined as it is to the prayer for rejection of the Final Report and appointment of a substitute auditor on the sole ground of divergence from the Interim Report, does not disclose sufficient cause for such relief. Issue No. V is accordingly answered in the negative: dismissal of the present Application does not foreclose the Applicant from otherwise relying upon, or contesting the weight of, the Interim Report, the Final Report, or such other proceeding as may be appropriate.

For all the foregoing reasons, we are unable to accept the Applicant's sole ground — namely, unexplained divergence between the Interim and Final Reports — as sufficient cause to direct rejection of the KPMG Final Forensic Report or the appointment of an alternate forensic auditor in its place. The Application, to that extent liable to be rejected.

Accordingly, This Tribunal is of the considered view that the divergence between the KPMG Interim Forensic Report and the KPMG Final Forensic Report, without any further infirmity being demonstrated, does not furnish sufficient ground to direct the Liquidator to disregard the Final Report or to appoint an alternate forensic auditor in substitution of KPMG. Therefore, I.A. 371 of 2023 is liable to be dismissed

ORDER

Accordingly, I.A. 371 of 2023 filed in TP 161 of 2019 [CP(IB) 19 of 2017] is dismissed and disposed of.

Sd/-

MAN MOHAN GUPTA
(MEMBER TECHNICAL)

Sd/-

BRAJENDRA MANI TRIPATHI
(MEMBER JUDICIAL)

Vanshika-LRA