IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH
[Through Physical hearing/ VC Mode (Hybrid)]

ITEM No.30
IA (IBC) 874/2025
IA (Liq) PR 108/2026
CP(IB) No.04/BB/2022

IN THE MATTER OF:

NYS Granites Impex Pvt. Ltd. ... Petitioner

Petition under Sec 10 of I&B Code, 2016

Order delivered on: 10.08.2026

CORAM:

SHRI SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)

SHRI RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

COUNSELS PRESENT:

For Liquidator : Ms. Ranjana Singh. Advocate
For IA 874/2025 : Mr. Abhijt Atur, Ms. Siva Tejaswini, for Respondent

ORDER

1. Heard Learned Counsel for the Liquidator.
2. **IA (IBC) 874/2025 is dismissed vide separate order.**
3. **IA (Liq) PR 108/2026** is taken on record and there by IA is allowed.
4. List this matter on **12.10.2026.**

-Sd-
RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-
SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)

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IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH
(Hearing conducted through Hybrid mode)

I.A. No.874/2025
In
C.P (IB) No. 04/BB/2022
Under Section 34 (3) and 60 (5) of the I & B Code, 2016 and Regulation 9 of IBBI (Liquidation Process) Regulation 2016 read with Rule 11 of the NCLT Rules, 2016

IN THE MATTER OF:

Ms. Ranjana Singh
Liquidator, NYS Granites Impex Private Limited,
"Shreevathsa" 428, 19B Cross,
3rd Block, Jayanagar,
Bengaluru -560011 --- Applicant/Liquidator

Versus

1. Shri Ratnakar Shetty,
Erstwhile IRP of NYS Granites Impex Pvt. Ltd.
C801, Mantri Serenity Apt,
Doddakalsandra, Kanakapura Road,
Bengaluru-560062

2. Mr. Shrikanta Ayili
Whole-time Director of
NYS Granites Impex Pvt., Ltd.,
No.3603, Ward No.-5,
New Kotwal Peth, Ilkal Hungas,
IlKal, Karnataka -587125

3. Sri. Nagaraj Vittappa Muddebihal
Whole-time Director of
NYS Granties Impex Pvt., Ltd.,
B-603, Hinduja Lake Front Estates, No.58/1A,
58/1B, Hulimavi Village,
Begur Village Hobli,
Bengaluru - 560076

4. Shri Yamanur Narasappa Saka
Managing Director of
NYS Granites Impex Pvt., Ltd.,
#3557/50, Ward No.5,
New Kotwalpeth, Hunguno,
Ilkal Post Bijapur,

Karnataka- 587125

5. Sri Mohan Narayanappa Ayili
Director of NYS Granities Impex Pvt., Ltd.,
No.3603, Ilkal, Hungund Taluk,
Bagalkot, Karantaka-587125

6**. Smt Bharathi Nagaraj**
Director of NYS Granites Impex Pvt., Ltd.,
B-1-05, Shanthi Park Apartment,
9th Block, Jayanagar,
Bengaluru-560069

7**. Sri Mamata Yamanur Saka**
Director of
NYS Granites Impex Pvt., Ltd.,
1st Floor, Ward No.5, New Kotwal Peth Post,
Ilkal Dist., Bagalkot Ilkal
Karnataka-587125 --- Respondents

Order delivered on: 10.08.2026

CORAM: 1. Shri Sunil Kumar Aggarwal, Hon'ble Member (Judicial)
2. Shri Radhakrishna Sreepada, Hon'ble Member (Technical)

COUNSELS PRESENT:

For the Applicant	:	Ms.Ranjana Singh
For Ex-RP	:	Ms.Tejaswini
For R2 to R7	:	Shri Narayana kamma

O R D E R

Per RADHAKRISHNA SREEPADA, Member(Technical):

1. This Company Application is filed on 14.10.2025 by **Ms. Ranjana Singh, Liquidator of NYS Granites Impex Private Limited** (hereinafter referred as "Applicants") under Section 34 (3) and 60 (5) and other applicable provisions of I & B Code, 2016 and Regulation 9 of IBBI (Liquidation Process) Regulations, 2016, read with Rule 11 of the NCLT Rules, 2016 against **Shri Ratnakar Shetty and 6 others**

(hereinafter referred as "Respondents") inter-alia seeking the following reliefs:

i. *Direct the Respondent No 2 to 6 suspended Directors of CD to extend complete co-operation in the liquidation process of the CD M/s. NYS Granites Impex Private Limited and*
ii. *Direct the Respondents NO.2 to 7 to hand over the documents and information as sought for by the Liquidator as listed in its letter dt. 4.08.2025 and*
iii. *The Respondent No.1 may be directed to clarify why the control and custody of the CD, as mandated under Section 18 (f) of the I & B Code, 2016 has not been taken;*
iv. *Pass any such other orders as are found necessary in the circumstances of the case, and in the interest of justice.*

1. <u>Facts of the case in the application are as under:</u>

1. It is submitted that pursuant to the petition filed under Section 10 of the IBC, 2016, the Corporate Debtor i.e M/s NYS Granites Impex Private Limited was admitted vide order dated 02.06.2023 by this Hon'ble Tribunal. Further, the Applicant herein was appointed as the Liquidator of CUL pursuant to the order of this Hon'ble Tribunal in IA No. 04 of 2024, the application filed by the Resolution Professional under section 33(1) of the Code.

2. Pursuant to appointment as the Liquidator, she has made a Public Announcement in Form B in the newspapers on 07th June 2025. Subsequently, she received claims to the tune of Rs. Rs. 29.37 Crores from the Financial Creditors, and a sum of Rs. 1.64 crores from the Operational Creditors. As Liquidator of CUL, she started discharging her functions under the Insolvency and Bankruptcy Code (Code) as well as IBBI (Liquidation Process) Regulations. The Liquidator had submitted Preliminary Report, Assets Memorandum and List of Stakeholders as required under Regulations 13 and 34 of Insolvency and Bankruptcy Board of India (Liquidation Process)

Regulations, 2016 (Liquidation Regulations) on 13th August 2025. Further, had issued a letter dated 05th June 2025 to the erstwhile IRP for handing over of custody of all assets and documents related to NYS Granites Impex Private Limited.

3. Pursuant to that letter, the liquidator has received a response from respondent no 1 through emails. In the absence of production of documents or of any adequate reply to the communication dated 05th June 2025, the Liquidator had issued another letter dated 02nd July 2025, which was served upon Respondent no. 1 through email as well as through speed post on 02nd July 2025 enlisting all such crucial documents mentioned above in the reference made to paragraph 6 of letter dated 05th June 2025 to be handed over to the Liquidator. In response to the above letter, the liquidator received an email and letter dated 09th July 2025 from the erstwhile IRP. The gist of the letter is as follows:

> *"i. Tally Data*
>
> *Tally data provided only from 2015-2016 to 2021-22. The Corporate Debtor was incorporated on 12.02.2012. For the initial 2 years tally data was not provided.*
>
> *The Erstwhile RP replied vide his letter dated 09th July 2025 as follows*
>
> *'I received a tally backup from April 2015 only from the previous management. Despite requests to the erstwhile management and the existing auditor, I could not obtain backup data prior to 2015. The financial statements were audited and signed till FY 2020-21, with draft financials prepared for FY 2021-22."*
>
> *ii. Receivables*
>
> *The liquidator understands that the trade receivables in respect of the F.Y 2019-20 was Rs. 98,49,293/-, which have been written off during the year FY 2020-21. The liquidator has not received the basis for writing off such receivables.*

The Erstwhile RP replied vide his letter dated 09th July 2025 as follows

'Based on the latest financial statements prepared by the management, all receivables and short-term deposits were shown as nil. According to the erstwhile management, some receivables and advances had to be written off as they could not be collected after reasonable follow-up with customers and vendors.'

iii. Financial Statement as on CIRP Commencement date

The CIRP regulations requires to update the statement of accounts upto CIRP commencement date and same have not been received by the Liquidator.

The Erstwhile RP replied vide his letter dated 09th July 2025 as follows:

'There were no transactions from the draft financial statement date (March 31, 2022) till the CIRP commencement date since the Company was defunct'

iv. Tangible Assets of the Company:

As per the draft financial statement for the F.Y 2021-2022 there are many items disclosed under the category of Tangible Assets, namely Computer, Furniture, Electrical fittings and Samsung Printer (WDV of these assets are Rs 7.55 Lakhs). No details of such tangible assets, Fixed Asset Registers, or whereabouts of furniture, fixtures, office equipment, computers / Laptops used by employees have not been shared and not handed over such assets to the Liquidator.

The Erstwhile RP replied vide his letter dated 09th July 2025 as follows:

'According to the erstwhile management, all assets were hypothecated to KSFC. In 2016, KSFC took over possession of the factory premises by enforcing their security interest. The erstwhile management claimed that KSFC did not hand over any documents or assets to them during this process. I had written to KSFC regarding this matter, and while they did not deny taking over the premises, they stated that they did not have any books of

accounts or documents in their custody. vi. Litigation Documents: I was informed about a few cases'

v. Litigation documents:

The Liquidator understands that there are certain litigations. Pleadings in respect of all ongoing cases not received by the Liquidator.

The Erstwhile RP replied vide his letter dated 09th July 2025 as follows

'I was informed about a few cases under the Negotiable Instruments Act (cheque bounce cases) against the erstwhile directors where the Corporate Debtor was also made a party. However, I did not receive any documents from the erstwhile management regarding these cases'

vi. Login credentials for GST, VAT and TAN

The Erstwhile RP replied vide his letter dated 09th July 2025 as follows:

All available login credentials have been shared with you via a separate email.

vii. Physical Documents/Records of the CD

The Liquidator has not received the records pertaining to the CD related to the Financial statements such as vouchers /bills , VAT returns, GST returns, Minutes of Board and shareholders' meetings, Secretarial records.

The Erstwhile RP replied vide his letter dated 09th July 2025 as follows.
'As mentioned earlier, according to the previous management, KSFC did not hand over any documents/books to the erstwhile management when they seized the factory/office premises. Consequently, I did not receive any physical documents/records from the erstwhile management except financial statements and tally backup.'

4. Upon perusal of the response filed by Respondent No. 1, it is evident that several documents pertaining to the Corporate Debtor have not

been taken over from Respondent Nos. 2 to 7. Furthermore, it is noted that no application has been filed before this Hon'ble Tribunal by Respondent No. 1 seeking cooperation or direction against the said respondents for the handover of such documents and assets. In light of this, the Applicant issued a detailed letter dated 04th August 2025 to the directors of NYS Granites Impex Private Limited, requesting the immediate transfer of custody of all assets, records, and documents related to the Corporate Debtor, which had not been handed over to the erstwhile Interim Resolution Professional (IRP). Pursuant to that letter, the liquidator received a letter dated 20th August 2025 from respondent no 2 seeking 2-3 weeks to respond.

5. The Applicant submits that she received the reply letter from Respondent No. 2 on 08th September 2025; however, it does not address the documents sought by the applicant. However, till the date of filing of this application, the Respondents have failed to produce the required documents or information to the Liquidator, even though they had been requested to produce the same within 15 days from the date of receipt of the said letter dated 16th August 2025. Thus, the Liquidator efforts to secure the crucial documents and information from the Respondents/erstwhile Directors have resulted in failure owing to the purposive and calculated non-cooperation by the Respondent Directors, which has led to great difficulty in administering the Liquidation proceedings of the Corporate Debtor effectively.

6. The Applicant submits that she has obtained a Mahazar report dated 25th November 2016 from the sole secured creditor, namely Karnataka State Financial Corporation (KSFC). Upon review of the said report, it is evident that at the time KSFC took custody of the premises, no computers, printers, furniture, or fixtures were recorded therein, contrary to the claims made by the Respondent No.1.

2. REPLY BY THE RESPONDENTS:

2.1. REPLY BY RESPONDENT No 1:

The Respondent No.1/Erstwhile RP has filed his reply to the application vide Dy.No.444 dated 30.01.2026 contending as under:

a) The Corporate Debtor was engaged in the business of granites and allied activities. The Corporate Debtor itself approached this Hon'ble Tribunal by filing the instant petition under Section 10 of the Insolvency and Bankruptcy Code, 2016 for initiation of the Corporate Insolvency Resolution Process which was duly admitted by order dated 02.06.2023 by this Hon'ble Tribunal.

b) Pursuant to the said admission order, the Respondent No. 1 was appointed as the IRP of the Corporate Debtor. He accordingly made a public announcement on 04.06.2023 inviting claims. It is recorded that only one claim was received from the secured creditor Karnataka State Financial Corporation ("KSFC"), which was examined and thereafter the Committee of Creditors ("CoC") was constituted, comprising KSFC as the sole financial creditor.

c) The Respondent No. 1 conducted the CIRP in terms of the Code, including an on-site visit to the Corporate Debtor's plant and preparation of the relevant reports to the extent feasible given the constraints. As recorded in his communications, when his team visited the factory premises after commencement of CIRP, the factory was empty, with only a few broken granite pieces and no movable assets on site. The land and shed were not locked or under anyone's custody and no physical books of account or records were available at the premises.

d) The Respondent No. 1 has explained, in his written reply to the present Liquidator that according to the suspended management, KSFC had seized the factory/office premises without handing over any documents or books to the management. Consequently, when the Respondent No. 1 took charge as IRP, he did not receive any physical documents or records from the suspended management, except financial statements and Tally back-up from April 2015 onwards, with financials audited and signed till FY 2020-21 and draft financials for FY 2021-22, which have already been provided to the Applicant / Liquidator.

e) It is further submitted that the role and duties of an Interim Resolution Professional are circumscribed by Sections 17, 18 and 20 of the Code, which obliges the IRP to collect all information relating to the assets, finances and operations of the corporate debtor for determining its financial position, and to take control and custody of assets over which the Corporate Debtor has ownership rights as recorded in its balance sheet or other registries. In order to discharge the said obligations, the Respondent No. 1, during CIRP, undertook the following steps, as reflected in his subsequent explanatory communication:
   a. Visited the factory land and took symbolic possession, including by placing the notice of CIRP admission at the premises;
   b. Visited banks such as State Bank of India, Kotak Mahindra Bank and Karnataka Bank to intimate them regarding commencement of CIRP and change of signatory;
   c. Sent intimations to various statutory authorities;
   d. Obtained available financial statements and Tally back-up from the erstwhile management;
   e. Attempted to verify the status of receivables and advances based on the information that could be gathered;
   f. Investigated the circumstances surrounding the takeover of the factory premises by KSFC.

f) Subsequently, it is submitted that the Committee of Creditors had formed a clear view that the Corporate Debtor was not a going concern and that no viable resolution was feasible. Accordingly, in its first meeting itself, the CoC resolved to proceed towards liquidation and further decided to move an application under Section 33(2) of the Code. Further, KSFC's own application filed under Section 33(2) seeking liquidation had been dismissed by this Hon'ble Tribunal on 08.01.2024 on the ground that, as a financial creditor, KSFC was not eligible to file such an application, but liberty was reserved for the IRP to move the appropriate application. It is pertinent to note that during this brief interregnum the IRP had extremely limited time and operational autonomy, and even proposal moved by the IRP for appointment of an advocate to appear before the Hon'ble Tribunal on his behalf was rejected by the CoC. In these circumstances, the focus of the CIRP remained confined to implementing the CoC's decision to seek liquidation, leaving no effective opportunity to the IRP to pursue any further action.

g) Further, on the decisions of the CoC, the Respondent No. 1 proceeded to file an application under Section 33(2), and this Hon'ble Tribunal passed the liquidation order appointing Ms. Ranjana Singh as the Liquidator of the Corporate Debtor vide Order dated 30.05.2025 in I.A. No. 04 of 2024. The Liquidator, after assuming charge, issued a letter dated 05.06.2025 to the Respondent No. 1 seeking handing over of assets and documents relating to the Corporate Debtor, followed by a further letter dated 02.07.2025. The Respondent No. 1 duly replied by letter dated 09.07.2025 setting out in-detail the aforementioned factual position. These letters form part of the record as Annexures in the Liquidator's own application before this Hon'ble Tribunal.

h) It is therefore wholly unjustified for the Applicant to suggest that the Respondent No. 1 suppressed or failed to investigate the impugned transactions. The correct legal position is that the Respondent No. 1 discharged his obligations as IRP within the constraints of the information environment then prevailing. In these circumstances, the assertion in the present application that the Respondent No. 1 has withheld or failed to disclose information pertaining to the Corporate Debtor is entirely contrary to the record. The Respondent No. 1 has been transparent and has, within the constraints of the limited documents obtained, placed all available information regarding the Corporate Debtor's affairs before the CoC and thereafter, by way of correspondence, before the Liquidator.

i) Admittedly as evident from the correspondence placed on record by the Liquidator, the Respondent No. 1 duly replied to the Liquidator's communications and clearly apprised her of the fact that he had not received any physical books and records from the erstwhile management, except for financial statements and Tally back-up for a limited period, and that KSFC had already taken possession of the factory and office premises without handing over documents to the erstwhile management.

j) The Respondent No. 1, even during his tenure as IRP, could obtain only such limited information about the Corporate Debtor's affairs as the suspended directors and existing records were in a position to provide on till that extent, despite multiple follow-ups and reminders by the Respondent No. 1, he was also faced with the same state of affairs as is the instant Applicant / Liquidator. Therefore, Respondent No. 1 had no independent or superior access to documents beyond those that were in fact obtained and disclosed. Accordingly, the Respondent No. 1 does not possess, and has never possessed, any further or additional information concerning the Corporate Debtor beyond what was already made available to him during the CIRP and communicated to the Applicant / Liquidator in writing.

k) Accordingly, no adverse inference can be drawn against the Respondent No. 1, the statutory scheme of the Code does not envisage vicarious liability of the IRP for past commercial decisions of the Corporate Debtor prior to the insolvency commencement date, especially where records are deficient due to actions of third parties as the same is not within the control of the Respondent No. 1. For the sake of reiteration, the Respondent No. 1 has duly fulfilled his obligations by providing all of the information available to him to the Applicant / Liquidator, and is thus not inclined to be made part in the present application.

l) Further, the COC did not want to confirm the IRP as RP as it proceeded with the liquidation of the Corporate Debtor as revival was not viable. In view of the same, the answering Respondent's role as the IRP concluded with the filing of the application for liquidation and therefore the Respondent cannot be held responsible for non-availability of the documents.

2.2. <u>REPLY BY RESPONDENTS No 2-7</u>:

<u>The Respondents No. 2 to 7 filed their reply to the application vide Dy.No.853 dated 19.02.2026 contending as under:</u>

a. The Respondents 2 to 7 have informed the IRP that the factory premises along with the plant and machinery were physically taken over by KSFC on **19.11.2016** and a copy of the mahazar drawn up at the time of take-over was also provided to the IRP. It was also informed to the IRP that the factory premises along with all the plant and machinery and other office equipment and records of the CD were taken over by KSFC in the absence of the Respondents 2 to 7. After the custody of the factory was taken over by KSFC, the Respondents 2 to 7 and its employees had no access to the documents/records of the CD. Subsequently, the plant and machinery of the CD was auctioned by KSFC and the same was handed over by KSFC to the auction purchaser in the absence of the respondents 2 to 7. As on date nothing is available in the premises of the CD except the vacant land.

b. The Tally data from 2015 and the audited balance sheets from 2015 has been handed over to the IRP and this fact has also been intimated to the Liquidator. Further, though the CD was incorporated in 2012, the commercial activities commenced only after the receipt of loan sanction from KSFC in the year 2013-14 and there were no commercial operations during the 2012-13 and the official who was handling the Tally data died during COVID in 2019. Hence the respondents 2 to 7 pray that all the information and records available with the Respondents has already been handed over to the IRP/Liquidator.
c. Even the information relating to the Trade Receivables have also been sent to the Liquidator on 11.2.2016. It has also been confirmed that no trade receivables have been written off during the year 2020-2021. In fact the entire amount of Rs.98,49,293/- was recovered and paid to the creditors during 2020-21. Copies of ledger accounts and the details of receivables have already been provided to the Liquidator.
d. The Respondent No. 1 visited the Corporate Debtor's premises and found that the factory was empty, with only a few broken granite pieces and no movable assets on site. The land and shed were not locked or under anyone's custody and no physical books of account or records were available at the premises.
e. The averments of the Liquidator at para 1 to 9 are matter of record and para 10 relates the correspondence with the IRP. However, the averment of the Liquidator at para 10(ii) that the trade receivables to the tune of Rs.98,49,293/- for the year 2019-20 were written off during the year 2020-21 is denied as false and the respondent no. 2 had in his letter dated 8.9.2025 clearly explained that no trade receivables were ever written-off but the amount received were paid to the creditors of the company and the details were also provided. However, the details were once again provided to the Liquidator on 11.2.2026.

f. As regards the tangible assets of the company, the respondent has already informed that the factory was seized in the year 2016 itself and was under the custody of the financial creditors and that these tangible assets were in the premises of the factory when it was seized by KSFC. The seizure has taken place in the absence of the respondents 2 to 7. Subsequently the plant and machinery of the CD have been auctioned by KSFC and the same have already been taken away by the auction purchaser. KSFC has never returned the tangible assets belonging to the CD. Further, majority of the tangible assets were the electrical fittings which were attached to the plant and machinery and the same were part of the plant and machinery auctioned by KSFC. The value of other tangible assets other than the electrical fittings was only about Rs.16,500/-. Since the respondents had no access to the factory premises, they were unable to recover any of the records and assets lying in the factory after it was seized by KSFC.

g. The details of legal cases pending are being provided to the Liquidator. There are four Section 138 of NI Act proceedings pending against the CD and the respondents.

3. Common rejoinder is filed by the Applicant to the Reply of Respondents No.1 to 7 vide Dy.No.1313 dated 13.03.2026. the same is taken on record.

4. We have heard the Learned Counsels for Applicant and Respondents and gone through the material available on re cords.

4.1. The factual position has been brought out by the IRP in his handing over note as under that he had

1. Visited the factory land and took symbolic possession, including by placing the notice of CIRP admission at the premises;

2. Visited banks such as State Bank of India, Kotak Mahindra Bank and Karnataka Bank to intimate them regarding commencement of CIRP and change of signatory;
3. Sent intimations to various statutory authorities;
4. Obtained available financial statements and Tally back-up from the erstwhile management;
5. Attempted to verify the status of receivables and advances based on the information that could be gathered;
6. KSFC had seized the factory/office premises without handing over any documents or books to the management. Consequently, when the Respondent No. 1 took charge as IRP, he did not receive any physical documents or records from the suspended management, except financial statements and Tally back-up from April 2015 onwards, with financials audited and signed till FY 2020-21 and draft financials for FY 2021-22,
7. Investigated the circumstances surrounding the takeover of the factory premises by KSFC.
8. When he took charge as IRP, he did not receive any physical documents or records from the suspended management, except financial statements and Tally back-up from April 2015 onwards, with financials audited and signed till FY 2020-21 and draft financials for FY 2021-22.
9. Hence When He did not get any Documents, there is no question of his handing over to the Successor.

4.2 The Suspended Management also submitted that

1. That the factory was seized in the year 2016 itself and was under the custody of the financial creditors and that these tangible assets were in the premises of the factory when it was seized by KSFC.
2. The seizure has taken place in the absence of the respondents 2 to 7. Subsequently the plant and machinery of the CD have

been auctioned by KSFC and the same have already been taken away by the auction purchaser.

3. KSFC has never returned the tangible assets belonging to the CD. Further, majority of the tangible assets were the electrical fittings which were attached to the plant and machinery and the same were part of the plant and machinery auctioned by KSFC.

5. In the above situation, the present petition that there is Non-Cooperation from the earlier RP or from the suspended management may really be of not much use. This is so because both of them claim that there was seizure of the premises by KSFC, which fact has not been disputed. The seizure is stated to have taken place when the Respondents 2-7 were not there and they had no idea as to what was seized and auctioned.

6. Under these circumstances, it would be futile exercise for this authority to pass an Order. Hence the Application is **Dismissed**.

-Sd-
RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-
SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)