IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.301
Cont.P/2(AHM)2025
in
CP 49 of 2020

Under Sec 12 of the Contempt Court Act, 1971 r/w Sec 425 of the Companies Act, 2013 & Rule 11 of the NCLT Rules, 2016

IN THE MATTER OF:

Ilaben Ashosbhai Modi

.....Applicant

V/s

Chiccem Healthcare Pvt. Ltd & Ors **.....Respondents**

Order delivered on: 11/09/2026

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

O R D E R
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

-SD-
SANJEEV SHARMA
EMBER (TECHNICAL)

-SD-
SHAMMI KHAN
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT–I, AHMEDABAD

Cont. P 02(AHM)2025
In
CP 49 of 2020

(Application under Section 2(b) read with Section 12 of the Contempt of Court Act 1971 read with Section 425 of The Companies Act, 2013 and rule 11 of the National Company Law Tribunal Rules, 2016)

In the Matter of: *M/s. Chiccem Healthcare Pvt. Ltd.*

MEMO OF PARTIES

Ilaben Ashokbhai Modi
Having its address at:
C-403, NYSA Courtyard,
Near Sabri School, Vasna Road,
Racecourse, Vadodara,
Gujarat-390007
Email id: advdgpartners@gmail.com

.... Applicant

VERSUS

1. **Chiccem Healthcare Private Limited**
   CIN: U74999GJ2017PTC096853
   Having its office at:
   Survey No. 347, Godown No.1,
   Someshwar Nagar, Opp. Shantinagar Flat,
   Near Hiranagar Sarkhej, Sarkhej,
   Daskroi, Ahmedabad – 382210, Gujarat
   Email id: chiccemjamun@gmail.com

2. **Hong Shik Yoo**
   Chief Executive Officer (CEO) and
   Director of Chiccem Healthcare Private Limited
   Having its address at:
   17-12 MANGWON-RO 7-GIL
   MAPO-GU SEOUL METROPOLITAN
   SEOUL – M89690572 KOREA, REPUBLIC OF KOREA

3. **Nawed Anwar**
   Director of Chiccem Healthcare Private Limited
   Having its address at:
   Survey No. 347, Godown No.1,
   Someshwar Nagar, Opp. Shantinagar Flat,
   Near Hiranagar Sarkhej , Sarkhej, Daskroi,
   Ahmedabad – 382210, Gujarat

4. **Parwez Eqbal Director of**
   Chiccem Healthcare Private Limited
   Having its address at:
   Survey No. 347, Godown No.1,
   Someshwar Nagar, Opp. Shantinagar Flat,
   Near Hiranagar Sarkhej , Sarkhej, Daskroi,
   Ahmedabad – 382210, Gujarat

5. **Subhash**
   Director of Chiccem Healthcare Private Limited
   Having its address at:
   Survey No. 347, Godown No.1,
   Someshwar Nagar, Opp. Shantinagar Flat,
   Near Hiranagar Sarkhej, Sarkhej, Daskroi,
   Ahmedabad – 382210, Gujarat

6. **Yogesh Mishra**
   Director of Chiccem Healthcare Private Limited
   Having its address at:
   15, Jankpuri -1, Imli Wala Phatak,
   Secretarial, Jaipur,
   Rajasthan Secretarial,
   Rajsathan – 302005

7. **Jiten Amrutlal Desai**
   Director of Chiccem Healthcare Private Limited
   Having its address at:
   477, Mahadev Street,
   Near Lake Garden,
   Katargam, Surat- 395004

.... Respondents

Order Pronounced On: 11.09.2026

C O R A M :
SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

A P P E A R A N C E :

For the Applicant	:	Mr. Dheeraj Garg, Adv.
For the Respondents	:	Mr. Nilesh Udernani, Advocate for R-2 Mr. Nipun Singhvi, Advocate a/w. Mr. Rahul Bhavar, Advocate for R-3 & (Respondent No. 5 in Person) Ms. Priti Kapadia, Advocate for R-4, R-6 & R-7

ORDER
(*Per*: Bench)

1. This application has been filed on 07.04.2025 (through e-mode) by **Ilaben Ashokbhai Modi**, (hereinafter as, "the **Applicant**") under Section 2(b) read with Section 12 of the Contempt of Court Act 1971 read with Section 425 of The Companies Act, 2013 and rule 11 of the National Company Law Tribunal Rules, 2016 seeking following reliefs: -

A. FINAL PRAYERS:

a. That this Hon'ble Tribunal be pleased to take cognizance of the contempt of court committed by the Respondents/Contemnors herein and be pleased to initiate proceedings for contempt against the Respondents herein

for the willful and deliberate breach of the order dated 02.04.2024 passed in Company Petition No.49 of 2020;

b. *Your Lordships may be pleased to punish the Respondents herein for contempt of the order dated 02.04.2024passed in the Company Petition No.49 of 2020 under section 12 of Contempt of Court Act, 1971*

c. *Your Lordships may be pleased to direct the Respondents herein to pay the balance amount of INR 9,22,068/- along with interest @ 12% per annum calculated from the date of final order dated 02.04.2024 passed in the Company Petition No.49 of 2020 passed by this Hon'ble Tribunal*

d. *Your Lordships may be pleased to direct for initiation of investigation into the affairs of the company under section 213 of the Companies Act, 2013*

e. *Your Lordships may be pleased to direct for initiation of investigation into the affairs of the company under section 213 of the Companies Act, 2013*

B. INTERIM/AD-INTERIM RELIEFS

a. *Pending the disposal of the present application, this Hon'ble Tribunal may be pleased to direct the attachment/freezing of all the bank accounts of the Respondents herein.*

b. *Pending the disposal of the present application, this Hon'ble Tribunal may be pleased to direct that Respondent No. 2,3,4,5,6, and 7 shall be detained in custody under section 14(4) of the Contempt of Courts Act, 1971 Altematively*

c. *Pending the disposal of the present application, this Hon'ble Tribunal may be pleased to direct Respondent No. 2,3,4,5,6, and 7 to deposit their Passport(s) with the Registry of this Hon'ble Tribunal.*

2. Briefly stated, the Applicant, being a share applicant-cum-deemed depositor, had deposited Rs. 10,00,000/- with Respondent No.1 on 25.09.2017 towards share application, which was neither allotted nor refunded despite repeated requests; consequently, Company Petition No. 49 of 2020 was filed on 12.12.2020 under Section 73(4) of the Companies Act, 2013 seeking refund with interest. This Tribunal, vide Final Order dated 02.04.2024, directed Respondent No.1 to pay Rs. 17,63,068/-, comprising Rs. 10,00,000/- towards principal and Rs. 7,63,068/- towards interest @12% p.a. from 24.11.2017 till actual payment, within one month. Thereafter, I.A. No. 47 of 2024 was filed on 01.05.2024 seeking extension of time; the same was listed on 06.05.2024, pursuant to which Respondent No.1 made part-payments of Rs. 2,00,000/- on 18.05.2024 and Rs. 4,00,000/- on 24.06.2024, leaving the balance unpaid. Despite expiry of the extended period and repeated directions, the Respondents failed to comply with the Final Order dated 02.04.2024, leading to the present Contempt Petition alleging wilful and deliberate

disobedience thereof. The Applicant further relies upon the financial statements of Respondent No.1 for FY 2017-18 to FY 2020-21, alleging excessive remuneration/withdrawals by the Directors and non-compliance with statutory requirements.

3. In compliance with order dated 05.06.2026, the Applicant filed revised Memo of Parties on 11.06.2026 vide Inward No. D-3707 to place on record updated addresses of Respondents.

4. The Respondent No. 2 & 3 entered appearance and filed a reply and further additional affidavit by R-3, raising preliminary objections to the maintainability of the Contempt Petition and submitting that the Final Order dated 02.04.2024 was directed against Respondent No.1 alone and imposed no personal obligation upon them. Respondent No.2 contended that he was not a party to the original proceedings and that there was no allegation or proof of any wilful disobedience attributable to him, while Respondent No.3 relied upon the financial disputes and deadlock in the Company since 2018, including CP No. 97 of 2019 and CP No. 76 of 2018, and stated that

the proposed EGM dated 19.11.2025, pursuant to notice dated 15.11.2025, for initiation of CIRP under Section 10 of the IBC could not proceed for want of requisite majority. Both Respondents accordingly sought dismissal of the Contempt Petition in the absence of any specific direction or wilful breach attributable to them.

5. That, the R-5/Nawed Anwar filed an affidavit adopting the Reply filed by R-3.

6. The Respondent No. 4, 6 and 7 entered appearance and filed a reply and additional affidavit, contending that they were not parties to C.P. No. 49 of 2020 in their personal capacities and that the Final Order dated 02.04.2024 was against the Company alone; hence, no wilful disobedience could be attributed to them. They further alleged that the management and financial control of the Company was concentrated with Respondent Nos. 2 and 3, particularly after the appointment of Respondent No. 2 as Director/CEO on 20.05.2017, and referred to the pending proceedings in C.P. No. 76 of 2018 and C.P. No. 97 of 2019, besides complaints made before the ROC on 25.02.2021 and 22.03.2021. It was further submitted

that Respondent No. 7 was himself a creditor of the Company for Rs. 34,00,000/-, as reflected in the FY 2022-23 financial statements, and that the audited/draft financial statements for FY 2023-24/2024-25 were also placed on record. Accordingly, they denied any wilful disobedience and sought deletion of their names from the Contempt Petition.

7. The Respondent No. 03 filed a rejoinder to the reply filed by R-4,6,7, contending that the said Respondents had deliberately delayed the proceedings despite service, their right to file reply having been closed on 05.02.2026, followed by issuance of bailable warrants on 19.03.2026. R-3 further alleged that R-4, 6 and 7 were actively pursuing CP No. 76 of 2018 and CP No. 97 of 2019, while avoiding the present proceedings, and had colluded with the Applicant in connection with Chiccem Medical Private Limited. It was further alleged that R-4, 6 and their relatives had defaulted in payment of dues to R-1, resulting in proceedings under Section 138 of the NI Act, and that the present proceedings were filed as a

counterblast and with an ulterior motive to delay the main proceedings.

8. That, the Applicant filed it Written Submissions on 19.03.2026 vide Inward No. D-2490 and revised Written Submission on 18.06.2026 vide Inward No. D-4989 relying on the following case laws:

a. Thota Mallikharjuna Rao vs M.N. Purnachandra Rao 2003(4)ALD780

b. Lechamps (Sea) Pte Ltd. v. Ashish Gupta and Anr. (2024) ibclaw.in 1419 HC

c. Delhi Development Authority v. Skipper Construction Co. (P) Ltd.- Supreme Court Reports [1996] SUPP. 2 S.C.R.

d. Director of Education, Uttaranchal and Ors. vs. Ved Prakash Joshi and Ors. [2005] SUPP. 1 S.C.R.

9. That, the R-4,6 & 7 filed it Written Submissions on 29.06.2026 vide Inward No. D-5249 relying on the following case laws:

a. Ram Kishon u. Tarun Bajaj, (2014) 16 SCC 204

b. Bapanaiah u. K.S. Raiu. (2015) I SCC 451

10. In compliance with order dated 03.09.2026, the R-3 filed a Pursis to place on record the Order dated 04.08.2026 passed by this Tribunal in the captioned proceedings, wherein this Tribunal has appointed Ms. Deepti Mukesh,

Former Member (Judicial), NCLT, as the Administrator in the said matter.

11. We have heard the Learned Counsel appearing for the parties and carefully considered the pleadings, affidavits, rejoinder, written submissions and material placed on record. The following question arises for consideration: whether the material on record discloses a prima facie case of wilful and deliberate disobedience of the order dated 02.04.2024 by Respondent No.1 and, if so, whether such alleged disobedience is attributable to Respondent Nos.2 to 7 within the meaning of Section 12(5) of the Contempt of Courts Act, 1971.

12. On perusal of the order dated 02.04.2024, it is evident that the direction for payment of Rs.17,63,068/-, comprising principal of Rs.10,00,000/- and interest of Rs.7,63,068/- at 12% per annum, was issued against Respondent No.1-Company. No separate or independent direction for payment was issued against Respondent Nos.2 to 7 in their individual capacities. However, this circumstance, by itself, does not conclude the question of

liability of an officer in view of Section 12(5) of the Contempt of Courts Act, 1971.

13. Section 12(5) of the Contempt of Courts Act, 1971 contemplates liability of a Director, manager, secretary or other officer where the contempt committed by a company is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of, such officer. Therefore, the relevant question is whether the material placed before us furnishes a prima facie basis to invoke the said provision against any of the individual Respondents.

14. It is not in dispute that Respondent No.1 made part-payments of Rs.2,00,000/- on 18.05.2024 and Rs.4,00,000/- on 24.06.2024. The Applicant alleges that an amount remained outstanding despite such payments and the expiry of the period granted for compliance. However, mere subsistence of an unpaid amount, without material establishing conscious, deliberate and wilful disobedience, cannot by itself constitute civil contempt.

15. We are conscious that an order of this Tribunal is required to be complied with unless stayed, modified or

varied by a competent forum. Nevertheless, the present proceedings invoke contempt jurisdiction under Section 425 of the Companies Act, 2013 read with the Contempt of Courts Act, 1971. Such jurisdiction is distinct from proceedings for enforcement or execution of a monetary direction and cannot be treated as a substitute for such remedy.

16. It is settled that wilful disobedience is an essential ingredient of civil contempt and the alleged disobedience must be conscious, deliberate and intentional. Mere non-compliance, in the absence of the requisite element of wilfulness, is insufficient. The principles laid down in *Ram Kishan v. Tarun Bajaj*, (2014) 16 SCC 204, *Ashok Paper Kamgar Union v. Dharam Godha*, (2003) 11 SCC 1 and *Rama Narang v. Ramesh Narang*, (2021) 15 SCC 338 are relevant in this regard.

17. The record further discloses substantial and continuing disputes amongst the Directors concerning the management, control and financial affairs of Respondent No.1-Company. The said disputes are already the subject matter of proceedings in CP Nos.76 of 2018 and 97 of

2019 pending before Court-II. The rival allegations concerning management, financial transactions, withdrawals and control of the Company are therefore matters requiring consideration in the appropriate substantive proceedings.

18. The pendency of such proceedings does not, by itself, authorise Respondent No.1 or any person bound by the order to disregard the order dated 02.04.2024. However, in the present contempt proceedings, the Tribunal is required to determine whether there is sufficient prima facie material demonstrating wilful disobedience and, insofar as individual officers are concerned, whether the alleged disobedience is attributable to their consent, connivance or neglect within the meaning of Section 12(5) of the Contempt of Courts Act, 1971.

19. Respondent Nos.4, 6 and 7 have contended that they were not parties to CP No.49 of 2020 in their personal capacities. Though this circumstance is relevant, it is not by itself conclusive in view of Section 12(5) of the Contempt of Courts Act, 1971. On examination of the material placed on record, however, we do not find

sufficient prima facie material establishing that the alleged non-compliance by Respondent No.1 was attributable to the consent, connivance or neglect of these Respondents.

20. The allegations regarding delay in filing replies, closure of the right to file reply, issuance of bailable warrants, participation in other proceedings, proceedings under Section 138 of the Negotiable Instruments Act or alleged ulterior motive do not establish wilful disobedience of the substantive direction contained in the order dated 02.04.2024. Such allegations, being disputed in nature, do not advance the Applicant's case on the essential ingredients of contempt.

21. The Applicant has also relied upon financial statements and alleged excessive remuneration, withdrawals and statutory non-compliance by the Directors. Such allegations, if otherwise maintainable, may be agitated in appropriate proceedings concerning the affairs of the Company. In the present proceedings, however, no sufficient nexus has been demonstrated between those

allegations and wilful disobedience of the specific direction contained in the order dated 02.04.2024.

22. We also take note of the subsequent order dated 04.08.2026 of Court-II, whereby Ms. Deepti Mukesh, Former Member (Judicial), NCLT, has been appointed as Administrator in the matter. Such appointment is not by itself determinative of the contempt allegation and is considered only as a subsequent development in the context of the continuing disputes concerning the management and affairs of Respondent No.1.

23. The material on record, therefore, does not establish a sufficient prima facie foundation that the non-payment by Respondent No.1 was the result of a conscious and deliberate act of wilful disobedience. Equally, there is no sufficient prima facie material demonstrating that such alleged disobedience was attributable to the consent, connivance or neglect of any of Respondent Nos.2 to 7 so as to attract Section 12(5) of the Contempt of Courts Act, 1971.

24. The fact that Respondent No.1 has made part-payments demonstrates that the order dated 02.04.2024 has not

been fully satisfied. However, the remaining unpaid amount, by itself, cannot constitute contempt in the absence of material establishing the requisite wilful and deliberate disobedience. Questions concerning the recovery or enforcement of the monetary amount are distinct from the penal jurisdiction presently invoked.

25. We are also of the view that the competing allegations concerning management, financial control, transactions and functioning of Respondent No.1 involve disputed questions which are already pending consideration in appropriate proceedings. It would therefore be inappropriate for this Tribunal, in the present contempt proceedings, to undertake adjudication of those disputes for the purpose of determining liability for contempt.

26. At the stage of considering whether a Show Cause Notice ought to be issued, the material before the Tribunal must disclose a sufficient prima facie foundation for the alleged contempt. Upon consideration of the entire record, we find that such foundation is absent in the present case. Accordingly, no ground is made out for issuance of a Show Cause Notice against the Respondents.

27. In view of the above, the prayers seeking initiation of contempt proceedings and punishment of the Respondents under the Contempt of Courts Act, 1971 are liable to be rejected. Consequently, the prayers for attachment or freezing of bank accounts, detention or custody of the Respondents and deposit of passports, being consequential and coercive in nature, also do not survive for consideration.

28. The prayer seeking investigation into the affairs of Respondent No.1 under Section 213 of the Companies Act, 2013 also cannot be granted in the present contempt proceedings. The allegations concerning the management, financial affairs and transactions of the Company require consideration, if otherwise maintainable, in appropriate substantive proceedings and cannot be converted into an investigation merely on the basis of allegations made in the present contempt petition.

29. Accordingly, the prayers seeking initiation of contempt proceedings, issuance of Show Cause Notice and consequential coercive measures against Respondent

Nos.1 to 7 for alleged wilful and deliberate disobedience of the order dated 02.04.2024 are rejected. The prayer for investigation under Section 213 of the Companies Act, 2013 is also rejected in the present proceedings, without prejudice to the rights and remedies of the parties in accordance with law.

30. Consequently, **Cont. P. No.02(AHM)2025** in CP No.49 of 2020 stands **dismissed.** No order as to costs.

-SD-

SANJEEV SHARMA
MEMBER (TECHNICAL)

-SD-

SHAMMI KHAN
MEMBER (JUDICIAL)

Jeel Pathak/LRA