**IN THE NATIONAL COMPANY LAW TRIBUNAL**
**AHMEDABAD**
**COURT – 2**

ITEM No.303
**IA/253(AHM)2024**
**in**
**CP(IB) 77 of 2018**

**Proceedings under Section 66 of IBC,2016**

**IN THE MATTER OF:**

Kiran Shah Liquidator of M/s.API Industries Private Limited (In Liquidation) **.....Applicant**

V/s

Pankajbhai Harilal Valia & Anr **.....Respondent**

**Order delivered on: 22/09/2026**

**Coram:**

**Mrs. Chitra Hankare, Hon'ble Member(J)**
**Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)**

**ORDER**

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet

Sd/-

**DR. V. G. VENKATA CHALAPATHY**
**MEMBER (TECHNICAL)**

Sd/-

**CHITRA HANKARE**
**MEMBER (JUDICIAL)**

SJ/AD/AP

**IN THE NATIONAL COMPANY LAW TRIBUNAL**
**AHMEDABAD (COURT - II)**

**IA No. 253 of 2024**
**In**
**CP (IB) No. 77/NCLT/AHM/2018**

*(An Application filed under Section 66 of the IBC, 2016)*

**In the matter of:**

M/s API Industries Private Limited ...Corporate Debtor

**MEMO OF PARTIES**

Mr. Kiran Shah,
Liquidator of M/s. API Industries Private Limited
608, Sakar-1, Near Gandhigram Railway Station,
Ashram Road, Ahmedabad - 380009, Gujarat

...Applicant

**Versus**

1. Mr. Pankajbhai Harilal Valia
   Ex-Director of the Corporate Debtor
   55, Vrindavan, Nutun Laxmi Soc,
   Road No 9, Juhu Scheme, Vile Parle (West),
   Mumbai Maharashtra 400049,
   Also at: 61-A, Varsha Co-op
   Housing Society Limited, Gulmohar Cross Road,
   JVPD Scheme, Vile Parle (West),
   Mumbai - 400049, Maharashtra

2. Mr. Bharat Valia
   Ex-Director of the Corporate Debtor
   Vakharia House, 1st Floor, 9th Road,
   J.V.P.D., Vile Parle (W), Juhu PS,
   Mumbai - 400049, Maharashtra
   Also at: Flat No. 1001, B Wing, Rupani House,
   JVPD Scheme, Nr. Kala Niketan, Vile Parle (West),
   Mumbai 400049, Maharashtra

...Respondents

Sd/-

Sd/-

**Order pronounced on 22.09.2026**

**Coram:**
**MRS. CHITRA HANKARE**
**HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G. VENKATA CHALAPATHY**
**HON'BLE MEMBER (TECHNICAL)**

**Appearance:**

For the Applicant : Mr. Arjun Sheth, Adv.
For the Respondent 1& 2 : Mr. Rajesh Bohra, Adv. and Ms. Sangeeta Bohra, Adv.

## JUDGEMENT

1. This application is filed under Section 66 of the IBC, 2016 by the Liquidator of the Corporate Debtor (hereinafter refer to as "CD")- API Industries Private Limited *inter alia* seeking following reliefs;

   a. *To pass an order for reversal of the fraudulent transactions entered into by the Corporate Debtor through the Opponents No. 1 and 2 and thereby, make the Opponents No. 1 and 2 liable to make such contributions to the assets of the Corporate Debtor as deemed fit;*
   b. *To direct the Opponents No. 1 and 2 to reverse the effect of the fraudulent transactions as are entered into by the Opponents and repay the amounts /benefits received by them or other recipients, to the Applicant;*
   c. *To direct the Opponents or any other persons to pay such sums, in respect of the benefits received by them, to the Applicant;*

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2. The CD entered into CIRP *vide* order dated 19.02.2019 thereafter, vide order dated 23.09.2019 liquidation was initiated and the applicant was appointed as liquidator.

3. The Applicant submitted that after commencement of liquidation, the Transaction Audit Report obtained during the CIRP was examined along with the books of accounts of the Corporate Debtor. According to the Applicant, the report disclosed certain transactions entered into by the erstwhile Directors, i.e. Opponent Nos. 1 and 2, prior to the Insolvency Commencement Date of 19.02.2019 which fall within the ambit of Section 66 of the IBC.

4. The Applicant stated that upon noticing irregularities, it sought explanations and supporting documents from the Opponents vide email dated 19.07.2022. While Opponent No. 1 sought time through various communications, no satisfactory explanation was furnished. Opponent No. 2 replied vide letter dated 28.06.2023, sent by email dated 30.06.2023; however, the queries remained unanswered and the requisite supporting documents were not produced.

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5. As per the Applicant, the Transaction Audit Report and books of accounts disclosed, inter alia, the following transactions:

a. FY 2016-17: increase and subsequent adjustment/appropriation of *Other Loans and Advances* of Rs.19,33,70,495/-, without supporting documents; writing off of non-current investments of Rs.8,49,688/- on 01.03.2017 which involves multiple adjustment entries; writing off of loans and advances of Rs.1,13,18,028/-; adjustment/debit of amounts aggregating to Rs.6,81,102.91/- in respect of related parties; written off trade advances to suppliers of Rs.60,61,637/-; and writing off sundry debtors of Rs.92,19,92,148/-; on 01.03.2017 which involves multiple adjustment entries.

b. FY 2017-18: reduction of non-current investment in VHCL Industries Ltd. by Rs.3,50,272/-; reduction of sundry creditors by Rs.44,29,914/- through a journal entry against unidentified/anonymous parties; and enhancement of unsecured loans from related parties by

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Rs.50,57,447/- through journal entries without any supporting documents;

c. FY 2018-19: writing off non-current investments amounting Rs. 25,90,000/- ,Rs.1,31,56,000/- and Rs.1,96,49,728/- in Suvidha Association, PMS Exports Pvt. Ltd. and VHCL Industries Ltd. respectively; writing off loans and advances aggregating to Rs.9,14,84,821/-, including amounts relating to Pankaj Valia and VHCL Industries Ltd.; writing off staff loans of Rs.3,12,300/-; and writing off fixed assets of Rs.6,84,595/-.

6. The applicant further submitted that the respondent have not furnished adequate particulars regarding the concerned parties, their related-party status, or the documentary basis for the aforesaid adjustments, write-offs, payments and appropriations. It is submitted that the explanations furnished including that certain amounts were written off in the ordinary course of business, due to non-recoverability or as accounting/reclassification entries, do not satisfactorily explain the transactions.

7. The applicant submitted that the transactions were fraudulent/wrongful in nature and prejudicial to the



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interests of the creditors and stakeholders, and were undertaken by the erstwhile Directors despite the Corporate Debtor itself initiated CIRP under Section 10 of the IBC.

8. The Respondents have opposed the Application and contended that they were not personally concerned with, nor beneficiaries of, any of the transactions in question, which were undertaken by the Corporate Debtor in the normal course of business while they were in management. They submit that personal liability cannot be fastened upon them without establishing their personal involvement or benefit. The Respondents further contended that the Application filed on 25.01.2024 is barred by limitation. Relying upon Regulation 35A of the CIRP Regulations, they submit that the RP was required to form an opinion within 75 days, make determination within 115 days and file the application within 135 days of the insolvency commencement date. It is submitted that the applicant, having acted as IRP/RP throughout the CIRP, did not treat the transactions as fraudulent during the CIRP and is therefore estopped from raising the issue subsequently. It

is further submitted that no independent determination report under Regulation 35A has been filed or made establishing the alleged fraudulent transactions after considering the Respondents' explanations. It is further submitted that the transactions relied upon by the Applicant were undertaken in the normal course of business and that several entries were merely journal entries, reclassification, adjustment or write-offs, without any actual movement of funds. They submit that such accounting entries, by themselves, cannot constitute fraudulent or wrongful trading.

9. With respect to the transactions for FY 2016-17 to FY 2018-19, the Respondents submit, inter alia, that the business of the Corporate Debtor had ceased in 2014, its assets were taken over by SBI in 2016 and several amounts/investments had become non-recoverable. According to them, the write-offs of investments, loans and advances, trade advances, trade debtors, staff loans and fixed assets were made on account of non-recoverability and in the ordinary course of accounting. The alleged increase in loans and advances, reduction of sundry

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creditors and unsecured loans were stated to be accounting/reclassification entries without actual monetary transactions.

10. The Respondents further submitted that they had furnished their reply dated 28.06.2023 to the queries raised by the Applicant, but relevant records, including bank statements and other documents, were in the custody/control of the Applicant since 2019. They contend that the Applicant has failed to establish, with specific evidence, the fraudulent nature of any individual transaction, the beneficiary thereof, movement of funds or any personal benefit derived by the Respondents.

11. The respondents have relied upon the following judgments:

a. *Hon'ble Supreme Court vide Order dated 09.12.1975 in the matter of Union of India vs M/s Chaturbhai M. Patel & Co. And Vice Versa*
b. *Renuka Devi Rangaswamy Vs Mr. Madhusudan Khemka, order dated 05.06.2023 in Company Appeal (AT)(CH)(Ins.) No. 356 of 2022,*
c. *Regen Powertech Pvt. Ltd. Vs Wind Construction Pvt. Ltd., Company Appeal (AT)(CH)(Ins) No. 349/2022, Hon'ble NCLAT,*

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d. *Kshitiz Chhawchharia Vs Madhumalati Merchandise Pvt. Ltd. & Ors. (Ramswarup Industries Ltd.), IA(IB) No. 346/KB/2019 in CP(IB) No. 349/KB/2017*

e. *Ramachandra D Choudhary Liquidator of Oasis Tradelink Ltd. Vs Marshall Multiventures (I) Pvt. Ltd, IA No. 316/2020 in CP(IB) No. 433/2018*

f. *Gluckrich Capital Pvt. Ltd. Vs The State of West Bengal & Ors vide Order dated 19.05.2023*

g. *Embassy Property Developments (P) Ltd. y. State of Karnataka, (2020) 13 SCC*

h. *Gujarat Urja Vikas Nigam Ltd. Vs Amit Gupta &Ors., Civil Appeal No. 9241 of 2019*

12. The Applicant in its rejoinder has submitted that the present application is maintainable and has been filed on the basis of the Transaction Audit Report received during liquidation. The delay in completion of the audit is attributed to the Respondents' non-cooperation, for which IA No. 465 of 2019 was filed. The Applicant further submitted that the timelines under Regulation 35A of the CIRP Regulations are directory, and the absence of an application during CIRP does not bar the present proceedings during liquidation. The pleas of limitation, estoppel and res judicata are therefore denied. The Applicant further submits that the Respondents, being the

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erstwhile Directors, were connected with the transactions in question and failed to furnish adequate particulars and supporting documents regarding the same. It is reiterated that the transactions specifically identified in the Application have been determined by the Applicant as fraudulent/wrongful transactions falling within Section 66 of the IBC.

13. Both the parties have filed their written submissions.

14. Heard the counsel for the applicant as well as the respondents. Perused the material available and written submissions placed on record.

15. Observations:

a. Whether the Liquidator can file an application under Section 66 of IBC 2016 after the prescribed period under Regulation 35 A of IBBI Rules 2016, is ineligible or barred by limitation is the issue. It is not a debt due, but a transaction identified as fraudulent or wrongful trading and the time period is directory and not mandatory. Further the applicant has stated that he has received the supporting Transaction Audit report during the liquidation period and has filed the application. The

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judgment of the Hon'ble Supreme Court in Gluckrich Capital Pvt ltd V State of West Bengal & Ors (2023 SCC online Sc 1187) underlines that the legal action initiated is independent of Sec 66(1) and it does not bar any civil action in accordance with law for recoverability of the dues from those responsible for the fraudulent affairs of the CD.

b. This tribunal had vide Order dated 18.12.2025 in IA 1454(AHM)2024 in another related company namely UIC Corporation Pvt. Ltd., wherein, this Tribunal has already given the direction to the applicant to write back all the assets written off and prepare a fresh balance sheet and proceed against the respondents under Sec 67(1) (a) by filing an appropriate notice for recovery of the amounts identified. The facts of the matter are similar involving the same respondents. It appears from the affidavit filed by the applicants that an appeal has been preferred against the said order before Hon'ble NCLAT and the same is pending.

c. This Tribunal has gone through the pleadings and submissions and observes that the amount involved

resulting in filing this application is disproportionately large. The respondents through the CD had filed an application for insolvency under Section 10 of the IBC 2016 supported by a board resolution dated 22 Jan 2018. This application was admitted for initiation of CIRP on 19.02.2019 and on a resolution approved by sole COC member, the CD was liquidated vide order dated 23.09.2019. The CD was thereby liquidated within a short period of around 6 months. Even though it is submitted that the sole COC had sold off its assets, there are observed to be many operational creditors who were registered abroad who had dues of over Rs.49.42 crores as mentioned in the order for initiating CIRP which were more than the dues of the FC.

d. On the basis of Transaction Audit Report, in FY 2016–17, the Applicant has questioned, the increase and subsequent adjustment/appropriation of Other Loans and Advances amounting to Rs.19,33,70,495/- without supporting documents; write-off of non-current investments of Rs.8,49,688/- on 01.03.2017; write-off of loans and advances of Rs.1,13,18,028/-;

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adjustment/debit of Rs.6,81,102.91/- relating to related parties; and write-off of trade advances to suppliers of Rs.60,61,637/- and sundry debtors of Rs.92,19,92,148/- on 01.03.2017. The Respondents have attributed these entries to non-recoverability and ordinary accounting adjustments. However, the Applicant disputes the adequacy of the explanations and supporting documents. Further, for FY 2017–18, the Applicant has alleged the reduction of non-current investment in VHCL Industries Ltd. by Rs.3,50,272/-; reduction of sundry creditors by Rs.44,29,914/- through a journal entry against unidentified parties; and enhancement of unsecured loans from related parties by Rs.50,57,447/- through unsupported journal entries.

e. In FY 2018–19, the Applicant raised concerns regarding the write-off of non-current investments in Suvidha Association of Rs.25,90,000/-, PMS Exports Pvt. Ltd. of Rs.1,31,56,000/- and VHCL Industries Ltd. of Rs.1,96,49,728/-; loans and advances aggregating to Rs.9,14,84,821/-, including amounts relating to Pankaj Valia and VHCL Industries Ltd.; staff loans of



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Rs.3,12,300/-; and fixed assets of Rs.6,84,595/-. The Respondents have attributed these write-offs to non-recoverability and cessation of business. They have stated that these were mere accounting or reclassification entries without any actual monetary transactions. However, the identity of the parties, the basis of the entries and the supporting records remain material for examining their correctness and propriety. The explanations furnished do not satisfactorily address all the queries raised by the Applicant.

f. It is apparent that the transactions under examination involve substantial amounts and comprise various adjustments, appropriations and write-offs made during the period preceding the Insolvency Commencement Date. It is significant that the Corporate Debtor itself had approached this Tribunal under Section 10 of the IBC, and the CIRP was subsequently followed by liquidation within a period of approximately six months.

g. In view of the foregoing, without any cash flows, the entries identified by the applicant raise concerns regarding the propriety of the adjustments,

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appropriations and write-offs. The explanations furnished by the Respondents do not satisfactorily address all the discrepancies pointed out. It is apparently observed that respondents tried to manipulate the books of accounts. The respondents have not provided any appropriate explanation to these transactions except stating that these are mere journal entries. The respondents only did such fraudulent transactions and after such systematic write off of entries in journals preferred an application under Section 10 of IBC, 2016 and also personal insolvency.

h. In view of the above, we pass the following orders:

**ORDER**

I. The Application is allowed.

II. The Respondents are directed to jointly and severally contribute the following amounts to the liquidation estate of the Corporate Debtor within 30 days:

a. for FY 2016-17, the sum of Rs.19,33,70,495, Rs.8,49,688/-, Rs.1,13,18,028/-, Rs.6,81,102.91/, Rs.60,61,637/-, Rs.92,19,92,148/-;

b. for FY 2017-18, the sum of Rs.3,50,272/-, Rs.44,29,914/- and Rs.50,57,447/-;

c. for the FY 2018-19, the sum of Rs.25,90,000/-, Rs.1,31,56,000/-, Rs.1,96,49,728/-, Rs.3,12,300/- and Rs.6,84,595/-.

III. Application is disposed of with above directions.

Sd/-

**DR. V. G. VENKATA CHALAPATHY**
**MEMBER (TECHNICAL)**

Sd/-

**CHITRA HANKARE**
**MEMBER (JUDICIAL)**