

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/COMPANY APPLICATION NO. 48 of 2023****In R/COMPANY PETITION/356/2016****With****R/COMPANY APPLICATION NO. 27 of 2022****In****R/COMPANY PETITION NO. 356 of 2016**

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ARVINDBHAI MADHUBHAI PATEL, SUSPENDED MANAGEMENT OF
MASS INFRASTRUCTURE PVT. LTD

Versus**OFFICIAL LIQUIDATOR OF MASS INFRASTRUCTURE PVT. LTD. & ORS.**

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Appearance:

ARJUN R SHETH(7589) for the Applicant(s) No. 1

DS AFFIDAVIT NOT FILED (FOR FRESH NOTICE)(4501) for the

Respondent(s) No. 4

KAMLESH B PATEL(8636) for the Respondent(s) No. 7

MR CHIRAYU A MEHTA(3256) for the Respondent(s) No. 1

MR PM DAVE(263) for the Respondent(s) No. 2

NOTICE SERVED for the Respondent(s) No. 3,5,6,8

SERVED BY RPAD (N) for the Respondent(s) No. 5

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CORAM: HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 12/06/2026**ORAL ORDER**

1. Heard learned advocate Mr. Arjun R. Sheth with Ms. Pritha Mitra for the applicant, learned advocate Mr. Chirayu Mehta for the Official Liquidator, learned advocate Mr. D.C. Bhatt for learned advocate Mr. P.M. Dave for respondent No.2. Though served, none appears for respondent Nos.3, 5, 6 and 8.

2. By way of this application, the applicant has inter alia sought for recalling of order dated 22.01.2020 passed by a learned Coordinate Bench of this Court in Company Petition No.256 of 2016 for winding up of the Company in question i.e. one Mass Infrastructure Pvt. Ltd., more

particularly on the ground that the applicant has settled its dispute with the creditors, who had filed the petition for winding up as well as to all the creditors.

3. Learned advocate Mr. Sheth would draw the attention of this Court to the order dated 22.01.2020 passed by a learned Coordinate Bench of this Court (Hon'ble Mr. Justice A.J. Desai, as His Lordship then was) and would submit that upon the petition preferred by the respondent No.2 herein, this Court had been pleased to direct winding up of the Company under Sections 433 and 434 of the Companies Act and whereas the Official Liquidator attached to this Court was appointed as an Official Liquidator, was directed to take charge of the assets attached with the Company and file report before this Court with regard to the same. Learned advocate would submit that immediately after the order dated 22.01.2020, the Company in liquidation had initiated process for settling the disputes with the creditors in question and whereas learned advocate would draw the attention of this Court to a communication dated 22.03.2021 issued by the respondent No.2 herein – M/s. Kotak Mahindra Bank - the petitioner of winding up petition, whereby the bank had certified that the bank had received complete payment due from the Company in liquidation and there are no outstanding dues against the Company in liquidation.

4. Learned advocate Mr. Sheth would further submit that the respondent Nos.3 to 8 herein, were also creditors of the Company in liquidation and whereas the Company in liquidation had settled the dues with the said respondents and whereas learned advocate would take this Court to the averments made from para 8 to para 21 of the application. Learned advocate would submit that apart from 7 respondents, there is a

dispute with one Kunal Structure India Pvt. Ltd. and whereas the said party has preferred an application under Section 11 of the Arbitration Act, which is being contested by the Company in liquidation before this Court. Learned advocate would submit that the Company in liquidation has also preferred a Civil Suit against the said party before the learned Civil Court at Vadodara and whereas a cross-suit has been filed by party named hereinabove. In any case, it is submitted by the learned advocate that since the respondent No.2 was the creditor, who had approached this Court with a request for winding up and at whose instance, the order was passed, has certified that its dues have been fulfilled and whereas the banks / financial institutions, which are joined as respondent Nos.3 to 8 having also certified that the dues to be received from the Company in liquidation, has been received, therefore, this Court may recall the order dated 22.01.2020 and effectively recall the order of winding up passed by this Court.

5. Learned advocate Mr. Chirayu Mehta for the Official Liquidator would submit that as such, the prayers are principally for this Court to adjudicate whereas the Official Liquidator would not have any serious role to play in the present application, yet it is submitted that as such, no funds have been received by the Official Liquidator from the Company in liquidation and therefore, the Official Liquidator is not required to refund any monies back to the Company in liquidation.

6. Learned advocates appearing on behalf of the respondent Nos.2 to 8 i.e. those respondents, who have chosen to appear before this Court, have supported the submissions made by learned advocate Mr. Sheth in so far as the settlement of the dues qua their respective clients.

7. It would also be relevant to observe here that vide an order dated 14.11.2025, a learned Coordinate Bench of this Court had directed the Company in liquidation to invite objections by paper publications in English and Gujarati newspapers, having wide circulation in the State of Gujarat and whereas attention of this Court has been drawn to the public notice published in the vernacular newspaper “Gujarat Samachar” as well as in the “Times of India”, both of which are having wide circulation, on 20.11.2025, more particularly whereby the applicant had intimated to public at large as regards application preferred by the applicant for recall of order dated 22.01.2020.

8. It has been submitted by learned Advocate Mr. Sheth that neither has anyone contacted the applicant herein as regards any objection for recalling of order dated 22.02.2020 and whereas as of now, approximately seven months after the public notice, no application has been filed by any other party objecting to recalling of the order of winding up.

9. Considering such a position since the entire aspect i.e. dues which could not be paid in so far as respondent No.2 is concerned, which had resulted in this Court coming to a conclusion that the company has lost its substratum, now no more remain. Considering such a position, since it appears that the original petitioner, who had filed the winding up petition, would not have any grievance, if the winding up order is recalled and whereas since the observations of this Court as a prelude to passing of the order of winding up that is the company having lost its substratum, now no more appearing to be true, more particularly basis the above fact, to this Court it would appear that the observations would meet with the interest of justice.

- (i) The order passed by this Court dated 22.01.2020 in Company Petition No. 356 of 2016 with Civil Application No. 1 of 2019, whereby the company in question had been directed to be wound up, is hereby recalled. All consequential actions to follow accordingly.

The present application stands disposed of as allowed.

Order in Company Application No. 27 of 2026

Considering the order passed in passed in Company Application No. 48 of 2023 in Company Petition No. 356 of 2016, the present application would not survive. Hence, the same is disposed of accordingly.

It will be open for the applicant to avail appropriate remedy available to him in accordance with law for the selfsame cause of action.

Y.N. VYAS

(NIKHIL S. KARIEL,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: YAGNESH NARENDRABHAI VYAS(HC00207), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 16/06/2026 15:55:30