

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

ITEM No.302  
CP/15(AHM)2024

**Under Section 213 of Co. Act, 2013**

**IN THE MATTER OF:**

Amit N Kapadia

Vs

UNITED PETROFER LIMITED & Ors.

.....Applicant

.....Respondents

**Order delivered on: 30/10/2025**

**C O R A M:**

MR. SHAMMI KHAN, HON'BLE MEMBER (J)

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

**ORDER**  
**(Hybrid Mode)**

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

Sd/-

**SANJEEV SHARMA**  
**MEMBER (TECHNICAL)**

Sd/-

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

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

**CP/15(AHM) 2024**

*(Petition under Section 213(b) of the Companies Act, 2013)*

**In the Matter of:**

**Amit N Kapadia**

Having address at:  
3/1810, Dhamlawad, Street-1,  
Salabatpura, Surat-3 95 003  
Gujarat, India

**.... Petitioner**

**VERSUS**

**1. United Petrofer Limited**

Having address at:  
Survey No. 92, Block A,B,C  
Ilaxy Compound, Opp. Navin Flourine  
Bhestan, Surat-395023

**2. Jamin Hemant Madlewala (Director)**

Having address at:  
57/1 14, Mahendranagar Society,  
Opp. BAPS Hospital, Navyug College,  
Adaj an, Surat-395009

**3. Hemant Thakordas Madlewala (Director)**

Having address at:  
57/ 1 14, 1\lahendranagar Society,  
Opp. BAPS Hospital, Navyug College,  
Adajan, Surat-395009

**4. Jagruti Nareshkumar Mandlewala (Director)**

Having address at:  
57/1 14, Mahendranagar Society,  
Opp. BAPS Hospital, Navyug College,  
Adajan, Surat~395009

**5. Nidhi Rajesh Ranka (Director)**

Having address at:

204, Navpad Appt., Nr. Hanuman Char Rasta,  
Surat-3 95 001 Gujarat

**6. Kalupur Commercial Co-op Bank**

Having address at:

Kalupur Bank Bhawan, Nr. Income tax Circle,  
Ashram Road, Ahmedabad-3 80005 Gujarat

**7. Registrar of Companies (Ahmedabad)**

Having address at:

ROC Bhawan, Opp Rupal Park Society,  
Behind Ankur Bus Stop, Naranpura  
Ahmedabad-380013 Gujarat

.... Respondents

**Order Pronounced On: 30.10.2025**

**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. Dhiren Dave, Advocate

For the Respondents : -

**ORDER**

**(Per: Bench)**

1. This Company Petition bearing no. **CP/15(AHM) 2024** is filed on 23.03.2024 by Mr. Amit N Kapadia under Section 213(b) of the Companies Act, 2013 seeking the following reliefs:

- i. *Investigation in to the affairs of the R 1 company be ordered along with all other respondents involved*
- ii. *Impose costs*

*iii. Any other relief this Bench May deem fit.*

**2.** The Petitioner has placed the facts through the C.P. in the following manner: -

2.1. It is submitted that the Respondent No.1 is a Public Limited Listed Company Incorporated on 29<sup>th</sup> July 2016 having CIN NO. L19101UP1996PLC019722 and having its registered office at Survey No. 92, Block A,B,C, Illaxy Compound, Opp. Navin Flourine, Bhestan, Surat-395023, India.

2.2. It is submitted that Respondent Nos. 2 to 5, being Directors of Respondent No. 1 Company, have managed its affairs with intent to defraud creditors and for fraudulent or unlawful purposes, and have been guilty of fraud, misfeasance, and misconduct in connection therewith.

2.3. It is submitted that Respondent No. 6, being the Banker of Respondent No. 1 Company, has financed the company on the basis of fabricated documents and misleading financial statements.

2.4. It is submitted that Respondent No. 7, being the Registrar of Companies having jurisdiction over the State where the registered office of Respondent No. 1 Company is situated, represents the Ministry of Corporate Affairs under whose authority the investigation of the company is to be conducted.

- 2.5. It is submitted that Respondent No. 1 Company has engaged in illegal activities, including non-compliance with laws, manipulation of bank funds, and filing of false and misleading records before government authorities, thereby misrepresenting its affairs to the government and public.
- 2.6. It is submitted that the Petitioner, through its Advocate, issued a Legal Notice to Respondent No. 1 Company, which failed to respond and persisted in non-compliance. Copy of the Legal Notice is annexed as Annexure-B with the Petition.
- 2.7. It is submitted that the Petitioner has filed complaints of professional misconduct against the Statutory Auditors and Company Secretary of Respondent No. 1 Company, which have been registered and are under consideration by the respective Institutes. Copy of the registration confirmation from ICAI is annexed as Annexure-C with the Petition.
- 2.8. It is submitted that Respondent No. 1 Company has filed false and contradictory records with the Ministry of Corporate Affairs, certified by Chartered Accountants and Company Secretaries, who have regrettably endorsed such misleading filings.
- 2.9. It is submitted that the Petitioner is entitled to file this Petition under Section 213(b) as sufficient circumstances

exist for this Tribunal to order an investigation into the affairs of the Company.

- 2.10. It is submitted that the instances of non-compliance by Respondent No. 1 Company, in connivance with the professionals associated with it, are enumerated below.
- i. The Audit Report of Respondent No. 1 Company for FY 2018–19 was filed without notes to accounts and a cash flow statement. The Auditor failed to ensure completeness of financial statements and signed incomplete records. A copy of the audited financial statement filed in Form AOC-4 is annexed as Annexure-D with the Petition.
  - ii. It is submitted that Respondent No. 1 Company has no validly appointed Statutory Auditor, as the alleged appointment through an invalid meeting is void ab initio. Form ADT-1 filed with a fabricated EoGM resolution dated 07.06.2019 is annexed as Annexure-E with the Petition.
  - iii. It is submitted that as per Form MGT-7, signed by the Company Director and an independent professional, no EoGM was held on 07.06.2019. A copy of Form MGT-7 is annexed as Annexure-F with the main petition.
  - iv. It is submitted that Respondent No. 1 Company allotted shares without genuine shareholder consent, based on a fabricated EoGM dated 26.11.2019 under Section 62(3). The Form MGT-14 with the resolution is annexed as Annexure-G with the Petition, while Form MGT-7 records no such EoGMs (Annexure-F supra).
  - v. It is submitted that the number of shares held by shareholders differs between Form MGT-7 and the audited accounts, reflecting clear negligence by the Statutory Auditor. Copies of Form MGT-7 and the

audited financial statement for FY 2020–21 are annexed as Annexure-H-Colly with the main petition.

vi. It is submitted that Respondent No. 1 Company, its Directors, and associated professionals have been grossly negligent in filing mandatory forms, including DPT-3 (FY 2018–19 to 2022–23), PAS-6 (FY 2018–19 to 2022–23, 2nd half), and MGT-14 (FY 2019–20, 2021–22, 2022–23), thereby clearly violating statutory requirements.

2.11. It is submitted that the Directors of Respondent No. 1 Company, in connivance with associated professionals, filed false MGT-8 certificates and falsely certified Form MGT-7 by declaring “YES” to compliance with the Companies Act, 2013. Copies of such false MGT-8 and MGT-7 forms certified by the Company Secretary for all relevant years are annexed as Annexure-I (colly) with the Petition.

2.12. It is submitted that Respondent No. 4 was appointed as Director w.e.f. 09.01.2019, as per Form MGT-7 (Annexure-I). However, the same PCS certified Form MGT-14 with a resolution dated 23.06.2018 signed by her as Director, which is contradictory. Copy of the resolution is annexed as Annexure-J.

2.13. It is submitted that Form MGT-14 filed under Section 62(3) is invalid, being signed by Respondent No. 4, who was not a Director on 23.06.2018, and negligently certified by the PCS. A copy of the said form is annexed as Annexure-K with the petition.

2.14. It is submitted that the creation of false records on the MCA portal, with full knowledge of their falsity, attracts Sections 447 and 448 of the Companies Act, 2013, and constitutes prima facie evidence satisfying the conditions under Section 213 of the Act.

3. That, in compliance with the order dated 04.04.2024, the Petitioner filed an additional affidavit on 26.04.2024 vide Inward Diary No. D-3591 to bring on record certain documents and information in support of the contentions raised in the petition herein, the Petitioner has disclosed the following information: -

3.1. It is submitted that the Petitioner, trading as Jalaram Jari Industries, is a creditor of Respondent No. 1 Company, which took advance payment without supplying goods or refunding the amount. The cheques issued were dishonoured, and a notice under Section 138 of the Negotiable Instruments Act was issued. Copies of the notice in Gujarati and its English translation are annexed as Annexure-B and Annexure-C respectively with the affidavit.

3.2. It is submitted that a copy of the ledger from the Petitioner's books evidencing the business association is annexed as Annexure-D.

4. Further, in compliance with the order dated 28.11.2024, the Petitioner filed written Synopsis on 21.12.2024 vide Inward Diary No. D-9145 wherein the following contentions were placed by the Applicant before this Tribunal:

- 4.1. It is submitted that the Petitioner, being a creditor of Respondent No. 1 Company, supplied goods for which payment was willfully withheld. Respondent No. 1 issued cheques acknowledging the debt, all of which were dishonoured, leading the Petitioner to issue a notice under Section 138 of the Negotiable Instruments Act.
- 4.2. It is submitted that prior to filing the present Company Petition, the Petitioner had also issued a legal notice to Respondent No. 1 Company and its associates.
- 4.3. It is submitted that under Section 96 of the Companies Act, 2013, every company is required to hold its Annual General Meeting on or before 30th September and file its financial statements with the MCA within 30 days thereof. However, as of December 2024, Respondent No. 1 Company has failed to file its Annual Returns and financial statements for the year ended 31.03.2024, demonstrating non-compliance with even basic statutory requirements.
- 4.4. It is submitted that under Section 213(b) of the Companies Act, 2013, any person may file an application with sufficient evidence, and the Tribunal must give the

concerned parties a reasonable opportunity of hearing before deciding, implying notice to the Respondents is mandatory.

4.5. It is submitted that it is a settled practice for the Tribunal to issue notice to respondents in petitions under Section 213 of the Companies Act, 2013, and decide on investigation only after granting them a reasonable opportunity of hearing. The relevant case laws relied are as follows:

- i.** Sach Electro Mech Pvt. Ltd Vs. Sanghi Industries Pvt. Ltd. & Ors in CP No. 37 of 2023
- ii.** Bhavesh K Jobanputra Vs Mewar\_Hi-Tech Engineering Limited in CP 201 of 2020
- iii.** Virai Patel Partner of Better Infrastructures Vs Veeiy Polyplast Ltd & Ors in CP No. 52 of 2024
- iv.** Shree Hari Coal Through its Partner Snehal Shah V/s Shree Sharma Steel Rolling Mills Pvt. Ltd & Ors in CP No. 15 of 2024
- v.** M/s. Banthia Consultancy Vs M/s. Torav Kusumgar Advanced Textile Ltd & Ors in CP No.2 of 2024
- vi.** M/s. Aavtar Dveing And Printing Mills And Ors Vs Shree Sant Krupa Silk Mills Private Limited in CP No. 25 of 2024
- vii.** Company Appeal No. 55 of 2024 Parth Merchant vs. Detox India Pvt. Ltd

**5.** Furthermore, the Petitioner filed an additional affidavit on 17.06.2025 vide Inward Diary No. D-3884 to bring on record

certain facts and documents in support of the averments made in the main petition filed against the Respondents. It is submitted by the Petitioner that:

- 5.1. It is submitted that before filing this Petition under Section 213 of the Companies Act, 2013, the Petitioner lodged complaints of professional misconduct against those involved in manipulating statutory records and certifying false documents of Respondent No. 1 Company, attracting offences under Sections 447 and 448 of the Act.
- 5.2. It is submitted that the Petitioner has filed a complaint of professional misconduct against the Statutory Auditor of Respondent No. 1 Company, M/s. Ranpura & Shah, before the Institute of Chartered Accountants of India (ICAI), registered as PR/43/2024/DD/106/2024, which is presently under consideration before the Disciplinary Directorate of ICAI.
- 5.3. It is submitted that the Petitioner has also filed a complaint of professional misconduct against the Company Secretary of Respondent No. 1 Company before the Institute of Company Secretaries of India (ICSI), registered as DC/1045/2024. The Hon'ble Disciplinary Committee of ICSI, vide its prima facie opinion dated 28.05.2025, has found PCS Mr. Jigar K. Vyas guilty of false certifications made for Respondent No. 1 Company.

5.4. It is submitted that the complaint includes serious allegations, namely:

- i. Non-filing of mandatory forms such as DPT-3, MGT-14, and PAS-6 for several years;
- ii. False certification of Form MGT-7 for FYs 2018–2023 and issuance of false MGT-8 certificates for the said years;
- iii. Self-contradictory certification of various statutory forms; and
- iv. Filing of Form AOC-4 without mandatory attachments like Notes to Accounts and Cash Flow Statement.

A copy of the prima facie opinion dated 28.05.2025 is annexed as Annexure A with the additional affidavit.

6. We have heard the arguments of Counsel for the Petitioner and have perused the material available on record. In lieu of the same, we are of the following **opinion**: -

6.1. The petitioner, Mr. Amit N Kapadia, has filed the present petition under Section 213(b) of the Companies Act, 2013, contending that the business of United Petrofer Limited ("the Company") is conducted with an intent to defraud creditors and other persons, or for fraudulent or unlawful purposes.

6.2. Section 213(b) of the Companies Act, 2013 provides that the Tribunal may order investigation into the affairs of a company if it is of the prima facie opinion that the

business of the company is being conducted with intent to defraud creditors, members or any other persons or otherwise for a fraudulent or unlawful purpose or in a manner oppressive to any of its members or that the company was formed for any fraudulent or unlawful purpose.

6.3. The Petitioner claims status as a creditor trading as Jalaram Jari Industries and alleges non-payment of advances leading to dishonour of cheques and issuance of notice under Section 138 of the Negotiable Instruments Act, 1881.

6.4. The allegations primarily revolve around non-compliances in filings and certifications, which do not prima facie establish a systemic fraud targeting creditors or members. The creditor claim pertains to a specific transaction amenable to recovery under the Negotiable Instruments Act, 1881 or civil proceedings, rather than invoking investigative powers under Section 213.

6.5. On perusal of the petition and the extensive supporting documents filed, this Tribunal notes the following material facts which do not satisfy the maintainability criteria under Section 213(b):

6.5.1. The petition filed by Mr. Amit N Kapadia under Section 213(b) of the Companies Act, 2013, seeking an investigation into the affairs of United Petrofer

Limited (“the Company”), has been carefully considered along with the accompanying documents, affidavits, and submissions.

- 6.5.2. It is observed that the petitioner has placed reliance on various contentions, including complaints filed with professional bodies (ICAI and ICSI), alleged statutory irregularities, dishonoured cheques, non-payment of dues, and non-compliance with filing requirements under the Companies Act, 2013.
- 6.5.3. Further, these indicate regulatory lapses enforceable by the Registrar of Companies under Sections 92, 137, or penalties under Section 454, but do not establish prima facie intent to defraud creditors or unlawful purpose under Section 213(b). The banker's role (Respondent No. 6) is alleged without evidence of reliance on fabricated documents specific to the Petitioner's transaction.
- 6.5.4. The Tribunal has also noted the preliminary findings of professional bodies such as ICSI and ICAI. But this pertains to certification lapses, not overarching fraud by the company or directors. The ICAI complaint remains under consideration without findings.
- 6.5.5. However, it is specifically noted that the petitioner has claimed dishonour of several cheques issued by the respondent company, United Petrofer Limited, as

evidence of non-payment of debts. However, this Tribunal observes that such dishonoured cheques, while reflecting unpaid debts, have not been conclusively linked to fraudulent intent or unlawful conduct of the company within the meaning contemplated under Section 213(b) of the Companies Act, 2013.

6.5.6. Furthermore, it is incumbent upon this Tribunal to highlight that the petitioner appears to have improperly invoked this statutory forum; primarily designed for investigation into affairs of companies involving fraud, misfeasance, or oppressive conduct as a mechanism for recovery of monetary dues. Section 213(b) is not intended to serve as a substitute or alternative recovery forum for disputed debts or commercial claims.

6.5.7. The adjudication of dishonoured cheques and monetary recovery necessarily lie within the exclusive jurisdiction of appropriate civil and criminal fora, including courts dealing with negotiable instruments and contractual disputes. The use of the present petition under Section 213(b) for recovery, rather than for genuine investigation into fraudulent affairs, is therefore impermissible.

6.5.8. This misuse militates against maintainability and weighs against the grant of the relief sought herein.

The petitioner is at liberty to pursue all available legal remedies in the proper jurisdiction for recovery of debts and enforcement of payments.

6.5.9. The petitioner has failed to establish a prima facie case warranting an investigation into the Company's affairs. The grievances and contentions raised, at this stage, fall strictly within the purview of contractual or civil disputes and not under the purview of fraud as envisaged by Section 213(b) of the Companies Act.

6.6. Furthermore, in **Jitesh Sanmukhlal Shah v. Corrttech International Ltd. and Ors. (2025) ibclaw.in 280 NCLAT**, decided on 22.04.2025, the Hon'ble NCLAT has held that: -

*“11. The only argument of appellant is the business of the respondent company is being conducted with an intent to defraud its creditors, though the appellant was unable to substantiate his allegations the creditors of the company are being defrauded. **Admittedly the appellant and the Respondent are in money dispute and arbitration proceedings are pending between two. It appears to circumvent such proceedings and to create pressure upon Respondent Company; the appellant had filed the present Company Petition seeking investigation into its affairs.** Further on perusal of the impugned order we find that though in para 15 of its impugned order, the Ld. NCLT has held the petition is not maintainable under sub-section (a) of Section 213 of Companies Act, 2013 yet if one examines the impugned order in its entirety, more specifically its*

*para (Supra) one would find the Ld. NCLT had also dealt with circumstances enumerated in sub-section (b) of Section 213 of Companies Act, 2013. Thus we find no merit in the appeal and hence it is dismissed.”*

7. In view of the above reasons, the petition filed under Section 213(b) of the Companies Act, 2013 is **not maintainable** and is hereby **dismissed** with no order as to costs.
8. The petitioner may pursue appropriate civil or criminal remedies available subject to limitation in accordance with law.
9. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-

**SANJEEV SHARMA**  
**MEMBER (TECHNICAL)**

JP

Sd/-

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**