



Neutral Citation Number: [2022] EWHC 1195 (Ch)

Case No: BR-2019-000780

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)

Rolls Building
Royal Courts of Justice
Fetter Lane
London EC4A 1NL

Date: 19/05/2022

Before :

ICC JUDGE MULLEN

In the Matter of Ravikanth Gupta (also known as Ravikanth Borra)

And in the Matter of the Insolvency Act 1986

Between :

RAVIKANTH BORRA
(also known as RAVI GUPTA)

Applicant

- and -

**(1) THE COMMISSIONERS FOR HER
MAJESTY'S REVENUE AND CUSTOMS**

(2) LOUISE BRITAIN
(as trustee in bankruptcy of RAVIKANTH GUPTA)

Respondents

Mr Andrew Vinson (instructed by **Farleys Solicitors LLP**) for the **Applicant**
Mr Raj Arumugam (instructed by **The Solicitor for HM Revenue and Customs**)
for the **First Respondent**
Mr Reuben Comiskey (instructed by **Edwin Coe LLP**) for the **Second Respondent**

Hearing dates: 1st to 3rd March 2022

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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ICC JUDGE MULLEN

ICC JUDGE MULLEN :

Introduction

1. The applications that I have to consider concern the identity of the bankrupt. On 26th June 2019 the Commissioners for HM Revenue and Customs (“HMRC”) petitioned for the bankruptcy of Ravikanth Gupta, described as a financier, of 480 Upper Richmond Road, London SW15 5JG. The debt set out in the petition was £145,492.93 made up of self-assessed taxes, interest, surcharges and penalties.
2. The petition debt, or at least a substantial portion of it, arose out of an investigation carried out by HMRC’s Counter Avoidance Unit in 2013. That investigation concluded that Ravikanth Gupta had participated in a loan scheme operated by a company called Raingold (UK) Limited (“Raingold”). HMRC concluded that the loans made under this scheme to Ravikanth Gupta were in fact disguised remuneration and taxable as income. Assessment notices were issued on 30th October 2013 for the tax years ending 5th April 2009 and 2010 in the sums of £49,726.00 and £27,225.00 respectively for unpaid self-assessment tax and National Insurance contributions. Those sums formed the first two principal sums particularised in the petition. The notices included payment instructions, noting that cheques should include a reference number, which ended “75859”. This reference begins with the letters UTR, which stands for Unique Taxpayer Reference.
3. The notices were not, however, sent to Ravikanth Gupta but to “Mr R Borra” at 106 Woking Close, London SW15 5LB. That is the name that HMRC, from its own records, understood to be used by “Ravikanth Gupta” at the time. Further sums were claimed in respect of each tax year to 2017 and assessment notices were issued in October 2018, in the sum of £6,000 for each of the tax years ending 2013, 2015, 2016 and 2017. An assessment issued in March 2018 for the tax year ending 2014 is for £30,000, although the petition is limited to £6,000 for that year. All of these later notices were issued to “Mr R Gupta” at 480 Upper Richmond Road. These notices included the same Unique Taxpayer Reference as the 2013 notices but also included the taxpayer’s National Insurance number, which ends “360A”.
4. The petition was amended on 22nd July 2019 to include the name “Ravikanth Borra” as an alias of the debtor. The amended petition was served pursuant to an order, dated 22nd August 2019, for substituted service by first class post addressed to “Ravikanth Gupta (also known as Borra)” at 480 Upper Richmond Road. Service was effective on 5th September 2019. There was no response to the petition and a bankruptcy order was made on 2nd October 2019. Ms Louise Brittain was appointed as trustee in bankruptcy by the Secretary of State on 12th December 2019.
5. On 28th October 2019, an application was made in the name of Ravikanth Gupta, giving as his address 27 Old Gloucester Street, London WC1N 3AX That address is in fact an address of British Monomarks Limited (“British Monomarks”), which operates a post-restante and redirection service. I will refer to this address, as the parties have done, as “the Monomarks Address”. The application asked the court to set aside the bankruptcy order on the grounds that the applicant had been unaware of the hearing and had received no documents in connection with the proceedings. In his witness statement in support, dated 18th December 2019, the applicant said that he had no connection to 480 Upper Richmond Road and had been living in India since 2012. He claimed that he was made redundant in 2012 and this, together with “insane working hours”, had led him to

suffer from depression, and he had suffered a relapse of this as a result of the bankruptcy proceedings. He said that he wanted time to gather information from HMRC.

6. On 26th February 2020 a witness statement was filed at court in the name of Ravi Gupta of 480 Upper Richmond Road. It is not related to any particular application but complains that he has been:

“added to the insolvency register based on the judgement given on 2ND OCT 2019 for RAVIKANTH GUPTA”.

It goes on:

“I have been appealing to every avenue possible to update of the fact that RAVI GUPTA is different to RAVIKANTH GUPTA. I’m different person and have never been called with any other name esp with RAVIKANTH GUPTA.

...

RAVIKANTH GUPTA is different person and he is responding to the court and is presenting his arguments and defense.”

7. On 27th February 2020 a document was filed at court in the name of Ravikanth Borra of 257 Burges Road, London E6 2EU. It is described as an affidavit but it is not sworn, instead bearing a statement of truth. Again, it is not associated with an application but states:

“I have never received any letters from HMRC related to any pending tax dues, and have never had any pending tax issues with HMRC. But unfortunately my name is added to the insolvency register and this judgement reference which is on RAVIKANTH GUPTA

I have never been served the bankruptcy notice or any declaration or any court notice to my address till date.

I notice from the court files that RAVIKANTH GUPTA the litigant in the case file is responding the court and has requested for a hearing which is scheduled on 30 Mar 2020.

Since I have nothing to do with this case and has never been served any notice till date, I request my name to be removed from insolvency register”.

8. On 8th May 2020 an application to annul the bankruptcy under section 282(1)(a) of the Insolvency Act 1986 (“the 1986 Act”) was made in the name of Ravikanth Gupta, whose address was again given as the Monomarks Address. The application notice said:

“there is a serious dispute on facts in relation to the Respondent’s calculation of the assessment given that the Applicant has lived outside of the UK, in India, since 2012”.

The witness statement in support of the same date raised a number of questions about the calculation of the assessed sums but it did not deny that the applicant was the intended target of the petition.

9. Shortly thereafter, on 16th May 2020, another application to annul under section 282(1)(a) was made, this time by Ravikanth Borra, who gave his address as 3 Stamford Road, London E6 1LP. The statement in support of the same date:

“Im still believe Im being dragged into affairs of another person. Im unclear who is the person made bankrupt. I have not received any tax claim letters from HMRC nor any court documents.”

10. A further application was made under the same name and address on 8th July 2020. It was described as an amended application and sought the removal of the name “Ravikanth Borra” from the bankruptcy order. The accompanying statement in support, dated 6th July 2020, said:

“In a case where we already have issues regarding the handling of ID, I can’t compromise on my ID documents. I did state myself respectfully to the court earlier and reiterate here again that I have been victim to ID fraud before and I have got hit badly

...

I don’t see a reason why me a third party is being dragged into some claim file on another person. My sincere request is to remove my name from the judgement and my application should be handled without combining with other issues on the case.”

11. It will be apparent therefore that there were two applications in the name of Ravikanth Gupta and two in the name of Ravikanth Borra. Those in the name of Ravikanth Gupta accept that he is the intended target of the petition but say that he was not served and that the tax has been incorrectly calculated. Those in the name of Ravikanth Borra similarly say that he did not receive the relevant documents and that HMRC have mistaken him for the bankrupt. He was not the intended target and he is not therefore subject to the order. The position of the respondents is that the person applying to the court in the name of Ravikanth Borra is the bankrupt and the name Ravikanth Gupta is one of the aliases by which he goes. They contend that the person calling himself Ravikanth Gupta is simply a front to create the impression that there is a doubt as to the bankrupt’s identity.
12. I shall for convenience in this judgment refer to the supposed authors of those applications as Mr Borra and Mr Gupta as these are the names they have used for themselves. In fact, Mr Borra changed his name by deed poll on 31st October 2011 from Ravikanth Borra to Ravi Gupta, on his evidence because he had been the victim of fraud under his original name. He continued to use his original and adopted names thereafter and has not formally reverted to the surname Borra.
13. At the trial, I heard only Mr Borra’s applications. The background to that was that the bankrupt was summoned to attend a public examination on a number of occasions and the trustee had obtained an order for the suspension of his discharge as a result of his

failure to co-operate with her. On 20th April 2021, the public examination came before the court for a fifth time. At the hearing, ICC Judge Burton noted that she had reviewed the transcripts of previous hearings and she identified that the central question was whether the person who had attended by video link on previous occasions was indeed the bankrupt. Neither Mr Gupta nor Mr Borra appeared on that occasion and ICC Judge Burton adjourned the public examination generally and suspended the bankrupt's discharge indefinitely as a result of lack of cooperation.

14. The trustee also submitted that Mr Gupta's annulment application of 8th May 2020 should be stayed pending co-operation, such co-operation being the price, as it were, that a bankrupt must pay to obtain an annulment. ICC Judge Burton acceded to the request and stayed the annulment application. A stay of the earlier application to set aside the bankruptcy order, dated 28th October 2019, was not sought and it was not brought to ICC Judge Burton's attention, with the result that only the 8th May 2020 annulment application was stayed.
15. On the first morning of trial Mr Gupta attended by video link from the offices of his lawyer, Mr Khan, in India to present his case. He had given notice to the other parties that he intended to do so only a few days beforehand. No permission had been sought from the court to attend or give evidence from India. Mr Arumugam, counsel for HMRC, raised the question of whether Mr Gupta's application of 28th October 2019 should be regarded as being before the court. It seemed to me to be quite clear that had ICC Judge Burton been made aware of the earlier application she would have stayed it too. Although it is expressed in slightly different terms to the later application it seeks the same relief, the overturning of the bankruptcy order on the basis that it ought not to have been made. It is, in substance, an application to annul under section 282(1)(a) of the 1986 Act. It would have entirely circumvented ICC Judge Burton's order to allow the 28th October 2019 application to proceed. Her reasoning applies to it equally. I therefore stayed that application too.
16. Mr Gupta's role in the proceedings was thus as a witness, his evidence having been ordered to stand as evidence in Mr Borra's applications. Mr Arumugam expressed dissatisfaction that Mr Gupta was seeking to bounce the parties and the court into allowing him to give evidence remotely from outside the jurisdiction but he accepted that the pragmatic approach was to allow that evidence to be given, subject to any later objections. Unsatisfactory though it was that the question of evidence being given from outside the jurisdiction was not addressed in advance I gave permission for him to do so on the basis that he was giving evidence from the private office of a member of the Indian bar, and it was not suggested that there is any prohibition on giving such evidence to foreign courts as a matter of the law of the Republic of India. No objection was taken to him giving evidence while Mr Khan was in the room. Mr Khan provided some technical assistance to Mr Gupta in navigating the bundle.
17. Mr Gupta's evidence would have been given after that of Mr Borra but, given that he was present and apparently ready with a stable video connection, Mr Vinson, counsel for Mr Borra, requested permission to call him first. This was not opposed by Mr Arumugam or Mr Comiskey, counsel for the trustee. Mr Gupta was not, as it turned out, ready and did not have access to the bundle that had been sent to Mr Khan. I therefore released him so that this could be sorted out by Mr Khan off-line and we could proceed with Mr Borra's evidence, during which I directed that Mr Gupta should disconnect from the hearing. On the morning of the second day of the trial, however,

he did not appear to begin his evidence. As a result we proceeded with the evidence of the respondents. During that evidence Mr Gupta and Mr Khan connected to the hearing. The respondents' evidence was concluded and Mr Gupta's evidence was taken last.

Approach to the applications

18. Section 282(1) of the 1986 Act provides:

“The court may annul a bankruptcy order if it at any time appears to the court—

(a) that, on any grounds existing at the time the order was made, the order ought not to have been made, or

(b) that, to the extent required by the rules, the bankruptcy debts and the expenses of the bankruptcy have all, since the making of the order, been either paid or secured for to the satisfaction of the court.”

Only section 282(1)(a) is relied upon here.

19. Mr Arumugam submitted that there was really no merit to Mr Borra's annulment application of 16th May 2020 at all. He pointed to the judgment of Proudman J in *Die Sparkasse Bremen AG v. Mehmet Armutcu* [2012] EWHC 4026 (Ch), at paragraph 5, that an applicant for annulment under section 282 must “satisfy the Court that he has some kind of legitimate interest in applying”. Mr Arumugam argued that Mr Borra can have no standing to annul the bankruptcy. On Mr Borra's case, the order relates to an entirely different person with whom he has no connection. What he is seeking, as set out in the 6th July 2020 application, is the removal of his name as an alias of the bankrupt from the bankruptcy order and associated documents. He has no standing to apply to annul someone else's bankruptcy and the section does not empower the court to amend the order. It either annuls the order or it does not.

20. Nor, he submitted, was there jurisdiction to amend the bankruptcy order otherwise than by order pursuant to the court's exceptional jurisdiction under section 375(1) of the 1986 Act, which provides:

“Every court having jurisdiction for the purposes of the Parts in this Group may review, rescind or vary any order made by it in the exercise of that jurisdiction.”

Again, Mr Arumugam says that there is nothing to engage this jurisdiction here. In *Papanicola v. Humphreys* [2005] EWHC 335 (Ch), Laddie J set out the following principles as to its exercise at paragraph 25 of his judgment:

“(1) The section gives the court a wide discretion to review vary or rescind any order made in the exercise of the bankruptcy jurisdiction.

(2) The onus is on the applicant to demonstrate the existence of circumstances which justify exercise of the discretion in his favour.

(3) Those circumstances must be exceptional.

(4) The circumstances relied on must involve a material difference to what was before the court which made the original order. In other words there must be something new to justify the overturning of the original order.

(5) There is no limit to the factors which may be taken into account. They can include, for example, changes which have occurred since the making of the original order and significant facts which, although in existence at the time of the original order, were not brought to the court's attention at that time.

(6) Where the new circumstances relied on consist of or include new evidence which could have been made available at the original hearing, that, and any explanation by the applicant gives for the failure to produce it then or any lack of such explanation, are factors which can be taken into account in the exercise of the discretion.”

21. Mr Arumugam submitted that the mere fact that a person has the same name as an alias of a bankrupt does not engage that jurisdiction. A person called John Smith cannot apply to vary a bankruptcy order made against another John Smith merely because there is a risk of confusion. What Mr Borra should have done was to identify any specific concerns about the conduct of the bankruptcy – such as mistaken claims to his own assets, and address those in correspondence with the trustee. If dissatisfied with her response, he could have applied under the jurisdiction conferred by section 303 of the 1986 Act, which allows a person dissatisfied by an act, omission or decision of a trustee to seek the Court's direction or order. The court would then be able to direct the trustee as to how to approach the identity of the person subject to the order. On that basis alone he submitted that the applications could be disposed of without cross-examination.
22. I agree with Mr Arumugam that a person who applies for an annulment must have a legitimate interest in doing so and a person cannot seek an annulment just because a bankruptcy order is made against someone who shares a name with him. Mr Borra does not say that he himself has been made bankrupt but rather that he is an innocent third party who has been dragged into the proceedings by the reference to his name and address in the bankruptcy order against Mr Gupta. If I were to conclude that this is so and that an incorrect address had been given for the bankrupt in the order I do not see why I could not direct its amendment in principle. If a third party, who has no prior knowledge of the proceedings, finds that his name appears as an alias of a bankrupt and his own address is given as an address on the bankruptcy order so as to give rise to a real risk of serious prejudice to him, that may well engage the section 375 jurisdiction in an appropriate case. Even if that is not right, it must be the case that the court has power to direct the amendment of the order to clarify the identity of the bankrupt in the exercise of its general control of the bankruptcy conferred by section 363 of the 1986 Act or make appropriate declarations, if nothing else.
23. Given that these applications came to me for trial nearly two years after they were made, and after the exchange of extensive evidence, it would not be right to determine the issues summarily on the basis of the form of the applications. They have been prepared

by a litigant in person without legal advice and it is preferable to look at the question underpinning the applications and then consider what relief can be granted to remedy any injustice that Mr Borra has suffered. That was the approach preferred by the trustee, who identified that the dismissal of the application on a summary basis now would only lead to the same issues about identity having to be confronted further down the line if, for example, she sought to realise property owned by Mr Borra.

24. However the applications might be framed, the question at the heart of the applications is the identity of the bankrupt. The respondents say that Mr Borra is the bankrupt and that the applications in the name of Ravikanth Gupta have in fact been drafted by Mr Borra. The person who has appeared by video link from India at a number of public examinations claiming to be the Ravikanth Gupta referred to in the petition, and who similarly appeared before me at trial, is merely a front for Mr Borra.
25. I unhesitatingly agree for the reasons that I will set out below and so the questions of what jurisdiction there might be to amend the order do not arise. Not only has Mr Borra sought to mislead the trustee, he has sought to mislead this court by filing applications and witness statements that he has created in the name of Mr Gupta to give the false impression that there is another person who accepts that he is the target of the petition. I state that quite unequivocally at the outset so that when I refer to the person claiming to be Ravikanth Gupta as “Mr Gupta” and to “Mr Gupta’s applications” I do not mean that I accept that that is who he is, or that he is the author of the applications or statements in that name. References to Mr Gupta’s applications and statements are references to the documents purportedly made by him. It may well be that the person who gave evidence from India is called Ravikanth Gupta and shares a birth date with the bankrupt. I do not have to adjudicate on that but I am satisfied that he is not the bankrupt.

The witnesses

Ravikanth Borra

26. I start with Mr Borra. It is his evidence that is central to my decision. He was not a satisfactory witness at all. I will explore the inconsistencies in his evidence in greater detail in due course and it will be clear that his evidence was improbable and altered to meet the questions put to him in cross-examination. It was not credible. A strikingly absurd feature of his evidence was that he did not recognise the picture of himself in a copy of a passport relied upon in the trustee’s evidence, only accepting it to be his passport when this was confirmed by HM Passport Office.
27. Moreover he has a casual approach to deception and telling outright lies. As I shall explain, after the making of the bankruptcy order he emailed the trustee twice on the same day. The two emails were about half an hour apart on the 27th February 2020. They were plainly calculated to attempt to deceive the trustee into believing that they were from two different people. Mr Borra accepted that he was the author of these emails but denied any attempt to mislead, noting in his witness statement that he could not “fully justify” his actions. The text of these emails however speaks for itself. In particular, the email in the name of Ravikanth Borra says that he has never been known by any other name, notwithstanding that he had changed his name by deed poll to “Ravi Gupta” and continued to use both names thereafter. As I have explained above, quite extraordinarily, in a witness statement dated 26th February 2020 submitted to the court

in the name of Ravi Gupta, he declared that he had never been known by any other name than Ravi Gupta. Those conflicting statements and emails to the trustee cannot have been innocent errors, they were deliberate untruths which cannot be justified at all.

28. He denied that he had been responsible for setting up a service address for Mr Gupta, whom he maintains he does not know, and for producing the applications and statements sent to the court in Mr Gupta's name when it is plain that he was responsible by reason of the use of his credit card, email address and phone number in the application and the metadata of the documents filed at court and sent to the other parties. It is hard to overstate the seriousness of that. For present purposes, I think that is all I need to say but those examples are more than enough to explain why I am unable to believe Mr Borra on his oath. I reject his evidence where it is unsupported by satisfactory corroborating evidence.

Ravikanth Gupta

29. Mr Gupta gave evidence in the Telugu language via a translator, whose attendance had been arranged by Mr Borra. The translator tended to enter into exchanges with Mr Gupta, rather than simply translating the words he said. Some of this appears to have been a genuine attempt to obtain a "yes or no" answer from Mr Gupta, who seemed to struggle with focussing on and answering the questions put to him but there were a couple of occasions when Mr Borra, though his counsel, objected that the witness's answers were not being translated accurately. It was apparent that there were occasions when the translator glossed Mr Gupta's answers, though he was repeatedly reminded, both by counsel and by me that he should do no more than translate the witness's own words.
30. Those matters were relatively inconsequential in context however. There were far more fundamental problems with Mr Gupta's evidence. Practice Direction 32 to the Civil Procedure Rules provides that a witness statement must be drafted in the witness's own words, in the witness's own language and it must describe how it has been prepared, whether face-to face or over the telephone for example (paragraph 18.1). The statement of truth must also be in the witness's own language (paragraph 20.1). The foreign language witness statement must then be translated into English and both the foreign language statement and translation must be filed at court. The translator must certify the accuracy of the translation and sign the original statement (paragraph 23.2).
31. Mr Gupta said that he could not read English. The only English word that he said he could write was his name. His statements had been prepared by a friend called Srinivas Murthy, whom he had told what to say. Mr Murthy had told him how to send the documents to the court. Mr Murthy was from his village but now lived in Bangalore but Mr Gupta did not know his address or his email address. This was the first time that any of this was mentioned and none of the requirements of the practice direction were followed.
32. Further, Mr Gupta's witness statements were plainly not written by him and the matters set out in them in relation to the operation of the loan scheme, the remuneration taxed and the calculation of the tax due set out in them bear no relation to the job or means of payment he described in his oral evidence. He is a man who accepts he is of very limited education. He said that Mr Murthy sent emails for him as his education was "very low",

which he explained meant he had failed the equivalent of GCSEs. He told me that he works as a handy man and in supplies and that he was in the UK doing “odd jobs” between 2009 and 2011. He said that he had heard the name Raingold when he worked in the UK but that he has never worked as a systems developer, which is the occupation of “Ravikanth Gupta” set out in the Raingold loan scheme documentation. He was an office boy, as he put it, doing such things as changing water bottles. He was earning £400 a month and was paid, at least mostly, in cash. He lived in Barking at the time in a small room. This is a million miles from what is said in the statement in his name about “his” employment. He said

“5 In relation to my employment, I had worked as a consultant during the relevant dates between 2009 and 2010 for a company called Raingold UK. The contract of employment for the relevant period is shown to me at ‘RG3’. At that time, the payroll company was using the ‘contractor loan remuneration scheme’ for paying salary and accounting for any allowances.

6 My understanding was that the ‘contractor loan remunerations scheme’ was made taxable in 2013 or some point after that date. I do not know the ins and outs of the change to the law, but I believe that unless it had retrospective effect to cover my two years of working in the UK, such changes would not be relevant to residents outside of the UK. This had happened after I returned to India and outside of the period that appears on the tax assessment.

7 During the relevant period (2009-2010), my gross earnings were £42,000, so I cannot see how the assessment for 2009-2010 can possibly be £49,726.00 as this sum is over and above the amount that I had earned in total for the same period.

8. During the period 2010-2011 my gross earnings were £41,500 and it would be incorrect to have a tax calculation of £27,225 as there would be no allowances being made been given. There is now produced and shown to me at ‘RG4’ the evidence of my earnings for the relevant periods.”

These are not the words of Mr Gupta, at least not the Mr Gupta that I saw give evidence by video. He is unsophisticated in matters such as this. He was unable to comment on the tax due. In contrast to the considered account of earnings and tax due given in his statements, he said in his oral evidence that he was told to pay tax and agreed to pay it. When asked whether he agreed that he owed tax at the level claimed he replied, “You tell me”. His evidence was confused, halting and unfocused. I cannot accept that he would have been able to dictate the words in his statements in Telugu to Mr Murthy. The difference between the statement and his oral evidence is so striking that the former cannot be his. It is doubtful that he in fact signed the statement. He was asked to sign his name there and then and hold it up to the camera. It did not, superficially at least, look much like the signature on the documents although I bear in mind that it was not very easy to see it clearly on screen. Mr Gupta said that it was a long time since he last wrote it.

33. His evidence became increasingly confused but in my judgment there were moments when reality might be glimpsed. At one point in connection with the application to use the Monomarks Address his answer, as translated, was that his friend had made the application and “whatever his friend has told him, he has done it” and “From the beginning they have told him that they can use this address”. When probed on whom he meant by “they” he said it was a lawyer called Mark Wilson from the consultants for whom he had worked. Mr Wilson’s name has nowhere been mentioned previously. There seem to be a number of figures who have been behind Mr Gupta’s involvement in the case. Besides the previously unmentioned Mr Murthy and Mr Wilson. Mr Gupta also told me that he became aware of the bankruptcy order when he came to the UK in 2019 and a man at his previous place of work told him there was a case against him. No details were given of who this man was or why he knew that there was a case against Mr Gupta. He was told he had to pay tax when he evidently had no clue how it might have arisen. The strong impression is that there are people in the background who have told Mr Gupta what he must do and what he must say. Having heard from Mr Gupta it is clear that he is not the bankrupt. He has never worked as a software engineer and did not participate in a disguised remuneration scheme. He has allowed himself to be used as a front for another. I do not accept his evidence.

Louise Brittain

34. Moving to the evidence for the respondents, the evidence of the trustee, Ms Brittain, was given in five witness statements. Neither Mr Borra nor Mr Gupta sought an order for her cross-examination and I accept what she says. Her statements, as is often the way in these cases, in the main set out the results of her investigation into the affairs of the bankrupt and exhibit the documents obtained. In particular, she exhibits documents from British Monomarks in connection with Mr Gupta’s application to use the Monomarks Address and redirection service, Mr Borra’s various property interests and the activity on his bank accounts.

Ben Wormald

35. Mr Wormald gave evidence for HMRC. He is a civil servant at HMRC Debt Management, Enforcement and Insolvency Service. He explained that the petition debt was identified by HMRC’s Counter Avoidance Unit and that HMRC’s became aware of Mr Borra’s change of name to Gupta in 2017, some six years after the deed poll.
36. He was cross-examined by Mr Vinson about HMRC’s records and taken to the two Raingold contracts, dated 1st April 2009 and 1st April 2010, described in each case as a “Limited Company Candidate Agreement” made between 7 Fifty Two Fifty Limited on the one part and Raingold and Ravikanth Gupta on the other that gave rise to the investigation and the assessments. He accepted that Mr Borra had not by then changed his name by deed poll to Ravi Gupta. It was put to him that a tax avoider would want to get the names of the participants in the scheme right and avoid unnecessary scrutiny arising from erroneous names, which he accepted might be right.
37. He was taken to Alliance and Leicester bank statements from 2009 addressed to Ravikanth Gupta at 257 Henley Road, Barking, London IG1 2TU into which payments from Raingold were made. This is also the address given for Ravikanth Gupta on the Raingold contracts. He accepted that he was not aware of a link between Mr Borra and that address and was unable to say how the link between the Ravikanth Gupta referred

to in the Raingold contracts with Mr Borra was discovered or what the basis of it was as he had not worked in the Counter Avoidance Unit.

38. He was similarly unaware of Mr Borra's claim to have been in employment with Keane India Limited in Bangalore between 2007 and 2011, as to which there is a short letter in the bundle from an unidentified "authorised signatory" of the company and some pay slips from the start of 2011. Nor did he know why, if it were true that the bankrupt and Mr Borra were one and the same, Mr Borra should have a separate National Insurance number, ending 114C, which was issued to him in 2019 when he was employed by Sernova Finance. This was still being investigated, having been frustrated by the pandemic, but he noted that payments had been made by Sernova under the 360A number as well as the 114C. He explained that the information on HMRC's system as to an employee's National Insurance number would be input by the employer, presumably from information supplied by the employee themselves.
39. Mr Wormald was doing his best to assist the court. He was not involved in the counter-avoidance investigation or in the department that dealt with the creation of National Insurance numbers and he accepted the limitations of his direct knowledge. Like Ms Brittain, his evidence is largely based on the records of HMRC rather than his own knowledge. I accept that he was an honest witness and I accept his evidence as far as it goes.

The names and addresses used by Mr Borra

40. Having set out the background and the witnesses I will now consider the evidence. The logical point to start is the responses of Mr Borra and Mr Gupta to the bankruptcy order. On 27th February 2020 at 15:44 Mr Borra emailed the trustee in bankruptcy from an email account including the username "rborra05" and said as follows:

"Dear Ms Birttain / Ms Gilchrist

I Ravikanth Borra have recieved letters at address 3 Stamford road, London E6 1LP asking the occupiers for documentation and notifying about the bankruptcy on my name supposedly.

The judgment for bankruptcy is on the name RAVIKANTH GUPTA and I have never been known by any name other than my name RAVIKANTH BORRA

Also this is the first time im hearing about this and Ive never received any notification or summons neither from HMRC for any taxes nor received any court summons

With bankruptcy judgement against RAVIKANTH GUPTA, why and how are you trying to implicate me RAVIKANTH BORRA into this..

I have verified the court file and the actual litigant RAVIKANTH GUPTA is responding to court and cooperating with the court proceedings. I have learnt that there is a forthcoming hearing on 30 MARCH 2020.

I have tried to verify with the person living at 480 Upper Richmond Rd to get more information. His name is also different but he as well is being pulled into the same claim.

Im not clear how judgement against one person can be applied to three different persons

I think it is necessary to understand who the actual litigant is of the three different people as per HMRC the claimant before you try to enforce the same judgement against all people with firstname RAVI or RAVIKANTH

Currently Im very much intimidated by the language in the letters and I dont see any point in meeting you in person , because I dont believe this should be applied to me

Please stop any further proceedings on this claim until it is clear

Thanks

Ravikanth Borra”

41. On the same day at 16:24 the trustee received another email from an account including the username “mailrgupta5”. This read as follows:

“Dear All

I have received letters from solicitors firm Edwin and Coe regarding the bankruptcy of above mentioned person

In the letters you have clearly presumed RAVI GUPTA which is me is same person as RAVIKANTH GUPTA. This is completely big mis-representation and needs big correction. I cant be responsible for all persons with last name GUPTA and have RAVI in the first name.

RAVIKANTH GUPTA is a family relative of mine who was in my contact long ago but then lost contact. I did re-established contact with him with some help and managed to alert him to the proceedings happening against him in Courts of England and Wales

As per the case file history, RAVIKANTH GUPTA has put in an application to court back in October 19 and the hearing is scheduled for 30 Mar 2020

This is clear and there is a clear identity established here and there is no ambiguity. Im not clear why the letter is sent now to me after the litigant himself is responding for a court hearing, and also given a date for hearing his appeal.

Please stop implicating me into any of these proceedings and the language in letter is quite intimidating and worrying me. There was never any court summons against my name and the debt claimed by HMRC is related to period when I was not living in this country.

Im sure there must be some sections in law which would let me lodge a case for damages caused by misrepresenting me into judgement given against different person. I have not entertained this thought yet and dont want to think that point now

I would be more than willing to meet the trustee and the solicitors team if the claim is on me.

Please stop implicating me into proceedings against RAVIKANTH GUPTA. If you need me then there should be a new claim on my name altogether

There are more than 1000s of people with name RAVI GUPTA living in UK with different variations.I dont think I should be implicated for any of the other people

Thanks & Regards

Ravi Gupta”

42. I reproduce those emails as they are. It can be seen they are similar in format, notably the capitalisation of names and the absence of apostrophes. They purport to come from two separate email accounts and two different people who feel that they have been caught up in someone else’s bankruptcy. Mr Borra accepts that he wrote them both but denies any attempt to mislead. He said in oral evidence that he wanted to know whom the bankruptcy was against. In his written evidence he said:

“I cannot fully justify my action, but in part at least I was trying to establish details about the debt, particularly as I thought that if there was indeed a ‘Ravikanth Borra’ who owed money, then it might well be my first cousin (whose debts I had previously had to pay...”

That is not what he said in the second of his emails to the trustees however. There he says that he was concerned to see if his relative “Ravikanth Gupta” was the intended subject of the bankruptcy order. In evidence he said that he also had a cousin called “Ravikanth Borra”. I accept that both names might be very common in India but there is no possible justification for this attempted deception of the trustee.

43. That deception was his intention is shown all the more clearly because the first of the emails states that Mr Borra had not been known by any other name than Ravikanth Borra. That is untrue. I have referred to the deed poll of 31st October 2011 by which Mr Borra for all purposes renounced the name “Ravikanth Borra” and adopted the name “Ravi Gupta”. The reason for this change of name, he says in evidence, was that he had been the victim of identity fraud, as to which there is no evidence at all.

44. Were there to be any question as to whether it might have slipped his mind that he had formally changed his name I remind myself that he filed a witness statement at court in these proceedings dated 26th February 2020 in which he gave his name as “Ravi Gupta” and his address as 480 Upper Richmond Road and said that he had never been known by any other name. That is only a day before he emailed the trustee to say that he had never been known as anything other than Ravikanth Borra and that he had made enquiries of “the person living at 480 Upper Richmond Road” who also believed that he had been wrongly drawn into the bankruptcy. I should say that Mr Borra, having confirmed the truth of the 26th February 2020 statement in his evidence in chief, explained during cross-examination that he had in fact withdrawn that statement. That does not matter. It was filed at court, bearing a statement of truth. Within the space of 24 hours he had told two diametrically opposed untruths as to the name by which he had always been known. To compound matters further, on 27th February 2020, he filed a statement in the name of Ravikanth Borra, this time giving his address as 257 Burges Road. He makes no mention of his statement made the day before in the name of Ravi Gupta.
45. As will be apparent from what I have said above, Mr Borra not only gave different names to the trustee and to the court in short order but also different addresses. The evidence shows that he used the names “Ravikanth Borra” and “Ravi Gupta” interchangeably after the date of the deed poll and has used multiple addresses simultaneously.
46. In about September 2014 he made an application for a mortgage loan in respect of 480 Upper Richmond Road, using the name Ravi Gupta and the address 106 Woking Close. He said that he used that name in connection with properties purchased after he changed his name in 2011. When dealing with properties purchased before the change, he was obliged to use his old name because that was the name in which the properties were registered.
47. That is not borne out by the evidence. In June 2015 there were transfers to him of 3 Stamford Road and 257 Burges Road from a Mr Mohan Krishnappa. Mr Borra’s name was given as “Ravikanth Borra”. Mr Borra says that this was because the mortgage was in the name of Borra. I do not understand that evidence. This was a transfer of a property from Mr Krishnappa to Mr Borra. I do not understand why there would be an existing mortgage in the name of Borra unless what is meant is that Mr Borra had applied for a mortgage in that name, but that would give no support to his contention that he used the name Gupta for transactions after he changed his name. Again, there is a mortgage offer in March 2018 in relation to 3 Stamford Road in which he gives the name Ravikanth Borra and his address as Flat 4, Dickinson Court, 15 Brewhouse Yard, London EC1V 4JX.
48. Mr Borra gave the relevant property as his service address on the transfers of 3 Stamford Road and 257 Burges Road. Mr Borra’s explanation for this was that he used the address of the relevant property and when he knew that something was to be delivered he would tell the occupant of the property to keep it for him. This does not seem to be a consistent practice either. There is a letting statement from 2016 in evidence in relation to Flat 92, 3 Riverlight Quay, which is addressed to Mr Borra, under the name Ravi Gupta, at 480 Upper Richmond Road.

49. I was also taken to Metro bank statements, apparently printed out in 2020, but showing transactions back to April 2017, addressed to “Mr R Borra” at Flat 4, Dickinson Court. Mr Borra confirmed that he had opened this account under that name and that address and he continued to use this address for these statements until December 2019. There are also credit card statements from the beginning of 2019 addressed to Mr Borra at that same address. Mr Borra explained that had been living at Flat 4, Dickinson Court, which was near his office, on and off since 2018. He was working in Sweden from 2011 to about August 2019, using Flat 4 when he was in London and also visiting family in west London. Yet his Royal Bank of Scotland bank statements, in the name of Ravi Gupta, give his address as 480 Upper Richmond Road. That account was opened in 2017 and appears to be Mr Borra’s usual current account. It shows no transactions in the vicinity of Dickinson Court in Clerkenwell or Sweden for that matter. There are, however, many in west London and south-west London in the vicinity of 480 Upper Richmond Road, which is between East Sheen and Putney, in 2019. He also confirmed 480 Upper Richmond Road to be his “current address” in correspondence with his conveyancing solicitors, Gordons Partnership LLP (“Gordons”), in relation to a purchase of a property in Nine Elms in November 2018. He instructed them under the name Ravi Gutpa, together with his wife.
50. He was also shown TSB statements from June 2019, in which his name is given as Mr R Gupta and his address is given as 480 Upper Richmond Road. Again, he said this was just a correspondence address because he was not getting on with his wife at the time. This makes no sense. HSBC statements were addressed to Mr Borra, under that name, at Flat 4 Dickson Court and he could have used that address had he wished.
51. What this in fact shows is that Mr Borra continued to use the names Gupta and Borra and tended to use the former in connection with 480 Upper Richmond Road and the latter in connection with other properties. He used them simultaneously. The reality is disclosed by the activity on his RBS account. He was primarily based there. It is right to say that the names used are “Ravikanth Borra” and “Ravi Gupta” but it would not be surprising if his former and current forenames were sometimes used interchangeably. They are very similar.
52. It is important to mention some other addresses associated with Mr Borra or people associated with him. Strikingly, Mr Borra transferred a number of properties into the name of his wife in September and October 2019. All of the transfers give the name of the transferee as “Mukti Roy”, which Mr Borra accepted to be a name used by his wife, Malathi Latha Sriram, who was herself adjudged bankrupt in 2017 and whose discharge has been suspended indefinitely.
53. I have seen the following deeds of transfer in form TR1, which I set out because the identity and the addresses of the witness to Mr Borra’s signature will become relevant –
 - i) The first is a transfer dated 30th September 2019 by which Mr Borra, under the name “Ravi Gupta”, transferred 480 Upper Richmond Road. His signature was witnessed by Mamatha Gowda who gives her address as 111 Woking Close, London SW15 5LD.
 - ii) The second is a transfer, also dated 30th September 2019, by which Mr Borra, again under the name “Ravi Gupta”, transferred 11 Westfields Avenue, London

SW13 0AT. Ms Gowda again witnessed his signature, giving her address as 111 Woking Close.

- iii) The third is a transfer, also 30th September 2019, by which Mr Borra, this time using the name “Ravikanth Borra”, transferred 257 Burges Road London E6 2EU. Ms Gowda again witnessed his signature, giving her address as 111 Woking Close.
- iv) The fourth is a transfer, dated 16th October 2019 by which Mr Borra, under the name “Ravi Gupta”, transferred 2 Nicholson Street, London SE1 0XP. His signature was witnessed by Ms Gowda who this time gives her address as 106 Woking Close, London SW15 5LB.

The first three transfers were made two days before the bankruptcy order. The fourth was transferred two weeks afterwards.

- 54. Ms Gowda gives her address as either 106 Woking Close or 111 Woking Close. It is notable that she gave her address as 480 Upper Richmond Road in 2017 when witnessing the signature of Malathi Sriram on a transfer of 11 Westfields Avenue to Mr Borra, using the name Ravi Gupta. It is not in dispute that she is a friend of Mr Borra’s wife, though Mr Borra said that she was not a close friend of his. Ms Gowda’s addresses are of significance for two reasons. First, it was to 106 Woking Close that the 2013 notices of assessment were sent by HMRC. This was also the address that Mr Borra gave when he applied for a driving licence in 2011. Secondly, the address 111 Woking Close will be of relevance in relation to the application to use the Monomarks Address.
- 55. What is shown by this evidence is that Mr Borra continued to use two different names, having renounced his original name in 2011. He continued to use different addresses as well, including addresses used by one of his associates, Ms Gowda.

Mr Borra’s National Insurance number and the tax assessments

- 56. For the purposes of this judgment I do not need to say more than to explain that tax assessments create a statutory debt that, save in very rare circumstances, cannot be challenged in this court. Mr Borra says that he was working for Keane India Ltd at the time but I place no weight on the letter and pay records supplied by an unnamed person from that organisation. The time for appealing the assessments underpinning the petition has long passed in any event.
- 57. Mr Borra denied that he had seen the 2013 assessments at the time. He accepted that 106 Woking Close, to which they were sent, had been his address in 2011 when he had given it to the Driver and Vehicle Licensing Agency but he was not in the country in 2013. There is no evidence of this and Mr Borra seems to have taken no steps to inform HMRC of any other address for service of documents.
- 58. The 2013 assessments show a unique tax reference, ending “75859”, which is to be marked on any cheques used for payment. Mr Wormald explained that this unique number was linked to a National Insurance number ending “360A”. The 2018 assessments show both this unique taxpayer reference ending “75859” and the National Insurance number ending “360A”. Mr Gupta claimed the number ending “360A” as his. Mr Borra says that it is not connected to him and has put in evidence of a different

number connected with his current employment ending “114C”. An individual is only supposed to have one National Insurance number. Mr Wormald accepted that HMRC had not been able to establish why more than one could have been issued to a single person. He did explain that the Unique Tax Payer Reference was associated with the National Insurance number ending “360A”.

59. Mr Gupta exhibited print outs from HMRC’s website to show the number ending “360A” to be the number of Ravikanth Gupta, whose main address is shown as the Monomarks Address. This is very far from the whole story. HMRC’s internal records show that the person associated with this number gave his name as Mr R K Borra from 11th April 2005 to 7th March 2006, and Mr R Borra from 7th March 2006 to 14th July 2017. It was only after that date that the record was changed to show his name as “Mr R Gupta” with the forename “Ravikanth”. Those details must have been provided to HMRC and there is nothing in the point that Mr Borra’s change of name in 2011 is not recorded until 2017. I cannot infer from this that this record belongs to someone else who changed his name in 2017. HMRC can only show a change when it is drawn to their attention. The date of birth is 15th March 1976, which is that of Mr Borra. The addresses associated with this number include 480 Upper Richmond Road and 111 Woking Close. The Monomarks Address is only shown as his address from 17th July 2020.
60. Mr Borra had no explanation as to why an address owned by him and an address given as a residential address by his wife’s friend should be associated with this number. He offers no evidence at all of having himself been the victim of identity theft. There is no evidence of a complaint to the police or any contemporaneous correspondence about it. I am satisfied that the number ending “360A” is Mr Borra’s National Insurance number. It was his original name that was first associated with it, together with his date of birth.
61. Were there any lingering doubt, there is in evidence a power of attorney made by deed on 29th May 2009 in connection with the purchase of Flat 4, Dickinson Court. It is signed by Mr Borra and witnessed by Mr Krishnappa. Next to Mr Borra’s signature is the National Insurance number ending “360A”. Mr Borra accepted that it was his signature but said that he did not recall the form and thought he might have been prompted to enter that number. There is simply no reason why anyone should have prompted Mr Borra to enter a National Insurance number that was not his own. The number was evidently inserted in order to identify Mr Borra.
62. The circumstances of the counter-avoidance investigation are admittedly opaque and somewhat historic. Mr Wormald was unable to shed much light on them but the assessments have not been appealed and I am satisfied that the target of the assessments was the person with the National Insurance number ending 360A and the unique taxpayer reference number ending “75859”. That number and/or the National Insurance number itself is stated on the assessments. The person associated with that number is Mr Borra.

Service of the bankruptcy petition

63. The petition was served on 5th September 2019 at 480 Upper Richmond Road pursuant to an order for substituted service by first class post. In relation to receipt of correspondence concerning the bankruptcy in 2019, Mr Borra says the following in his sixth witness statement:

“I do recall being informed in 2019 (at which time I was myself in India) by the occupants at 480 Upper Richmond Road of post having arrived there addressed on the envelope to ‘Ravikanth Gupta’; as I have never been known by that name, I assumed that the post had nothing to do with me, and so I asked that they be sent back unopened and marked ‘Return To Sender’. I can only assume that the envelope containing (in particular) the Amended Bankruptcy Petition was similarly marked; had it borne the name ‘Borra’, I would have arranged for it to be opened.”

64. Mr Arumugam asked why he would have caused an envelope to be returned that bore his adopted surname and his original first name if he had been, as he claims, a victim of identity fraud. One would expect a person who had been subject to identity fraud to check correspondence assiduously, particularly correspondence bearing a slight variation of his legal name, and to ask for such correspondence to be forwarded to him. Mr Borra however said that his tenants had sent the correspondence back. He denied that they did so on his instructions, despite having said exactly that in his written evidence. I asked him myself whether, if this letter had been addressed to “Mr R. Gutpa”, he would have opened it but because it was addressed to “Mr Ravikanth Gupta” he thought it had nothing to do with him. He confirmed that that was correct. I simply do not believe him. His evidence in this regard only has to be set out for it to be seen that it is totally incredible.
65. The evidence is all one way on this. An insolvency warning letter was sent to the debtor at 480 Upper Richmond Road and signed for on 23rd March 2019 by “Gupta”. In support of the application for substituted service, HMRC filed the statement of Richard Davies, a process server, who stated that he had attended 480 Upper Richmond Road on 30th July 2019 and had confirmed with an immediate neighbour that the debtor continued to live at the property. Mr Borra, despite owning this property, has produced no evidence of any other person with the name “Gupta” who lived at this address.
66. I am satisfied that Mr Borra became aware of the petition when it was sent to 480 Upper Richmond Road at the beginning of September 2019. I am fortified in this by the fact that it was followed almost immediately by the transfer of properties with, according to the trustee, a combined value of £3 million to Mr Borra’s wife, using her pseudonym, Mukti Roy. There is simply no legitimate explanation for this, other than the suggestion that it would be a somewhat transparent attempt to place the properties beyond the reach of his trustee in bankruptcy in circumstances where she is also the trustee for Ms Sriram. It was suggested in submissions that Ms Brittain was not in fact aware of Ms Sriram’s alias at the time but, whether or not that is right, no legitimate reason for these transfers is in evidence.

Mr Gupta’s applications and the Monomarks Address

67. I now turn to an extremely serious aspect of this case. Mr Borra’s case is, at least superficially, fortified by the fact that Mr Gupta has positively asserted that he is the bankrupt, although he seeks to annul the bankruptcy order. He has filed applications and documents in these proceedings giving the Monomarks Address as his service address.

68. As I have explained, in my judgment Mr Gupta is not the author of the witness statements filed in his name. They have plainly been created to give the impression that he is the taxpayer who was the target of HMRC's assessments and petition. If Mr Gupta did not create them one has to ask who was responsible for them. It would be a reasonable inference that it was Mr Borra. He is the only person who would benefit from introducing a person into these proceedings who positively asserts that he, rather than Mr Borra, is the taxpayer concerned. Inference is not, however, necessary. The evidence satisfies me that Mr Borra both established the Monomarks Address as the service address for use by Mr Gupta and was the author of the documents purportedly filed by Mr Gupta.
69. Ms Brittain has obtained from British Monomarks Limited the documents generated in October 2019 when a "Ravikanth Gupta" applied to use its forwarding service. There is a Sage Pay payment confirmation email dated 29th October 2019 and an application summary that shows the details provided by applicant for the service. These show that £141 was paid for the use of Monomarks' "Personal Street Address" six month forwarding service. Mr Gupta's email address is given as raavi05@outlook.com. I would ordinarily redact the full email address but, as will I hope be clear, it is important to see precisely how it is set out and the display name associated with it.
70. It was put to Mr Borra that this was his own email address. He accepted that it was an address that he had used in the past but he said that he had stopped using it in 2018, well before the application to British Monomarks was made. He certainly used it as late as 23rd November 2018 when he used it to correspond with Gordons in connection with his Nine Elms purchase. The chain of emails appears to have been printed out by Mr Mullins of Gordons. It is an email chain forwarded to him. The information at the top of chain is as follows:

"From: borra ravi gupta <raavi05@outlook.com>

Sent: 23 November 2018 12:30

To: Niall Mullins

Subject: Fwd: DAMAC : AYK/36/3608 Suppliment Agreement Negotiations"

Within the chain is an email from Mrs Sriram that responds to an email from Mr Borra. Before the quoted email from him are the automatically produced words:

"On 9 Nov 2018, at 08:38, borra ravi gupta <raavi05@outlook.com> wrote:"

The text of the email that follows is not relevant save that it is signed "Ravi". It can be seen that, in both cases, the display name is given as "borra ravi gupta" and is followed by the Microsoft Outlook email address with which it is associated.

71. The same email address also appears on an application made to HM Land Registry to change the register in respect of 480 Upper Richmond Road on 8th October 2019, a matter of weeks before the application to British Monomarks. Mr Borra said that he had simply used an old form that retained this old email address on it. That is not a credible

explanation. It is relatively quick to fill in the short form and I cannot accept that a person would leave redundant contact information on a form concerned with a property transaction.

72. Still further it was used in correspondence between Mr Borra, Ms Sriram and their conveyancing solicitor in July 2020 in connection with Ms Brittain's request for a copy of the conveyancing file. There are no emails from Mr Borra in this exchange but both his solicitor and Ms Sriram copy him into the exchange using the raavi05@outlook.com email address. The only reason why they would have done this is if they understood that to be an email address that he used. The correspondence concerns the release of Mr Borra's conveyancing file to his trustee, and Mr Borra's solicitor and his wife would have used an email address for him that they understood him to use. It is notable that the display name for Mr Borra's email address again appears in one of these emails as "borra ravi gupta".
73. The confirmation further sets out Mr Borra's mobile number. He accepted that it is his number. The payment card number is Mr Borra's HSBC card number. The statements in evidence, addressed to Mr Borra at Flat 4 Dickson Court, show that this card was being used for normal day-to-day activities both before and after the payment to British Monomarks, which appears on the statement dated 30th October 2019. This is evidently a joint account with Mr Borra's wife, but the statements show that she has a different card number on which there was no activity in the period. Mr Borra suggested that these account statements were electronic statements and that he was unable to access them for a time. I do not believe him. There is no evidence of this at all and he continued to use the card as normal for months thereafter.
74. The forwarding address is 111 Woking Close, which as I have explained, is the address of a family friend, Ms Gowda, and an address that HMRC associated with Mr Borra on their internal system. It is also the address to which a Halifax bank account in the name of "Ravikanth Gupta" was registered. There is no doubt that it is an address used by Mr Borra.
75. British Monomarks also had among its records a photocopy of a passport with the number 501505050. HM Passport Office have confirmed that is the number of a passport issued to Mr Borra on 28th January 2011, but which was subsequently cancelled and replaced. The passport photocopied by British Monomarks has three material differences however. It shows the name of the holder to be "Ravikanth Gupta" and the year of birth to be 1975 rather 1976, the latter being the year in which Mr Borra was born. The machine readable number at the bottom of the page, includes the former year of birth. The trustee's evidence is that this machine readable number is not recognised as valid when a "checksum" test is performed but is so recognised when the "75" is changed to a "76". The other details are those of Mr Borra and the photograph is of him.
76. Mr Borra says that he lost this passport a few weeks after it was issued in January 2011. He told me that he was scared that his cousin had taken it which is why he cancelled it. That was not what he said in his written evidence however. In his statement of 1st February 2021 he says at paragraph 31:

“(3) UK Passport No. 501505050 is not mine, and I do not know whose it is; my UK passport number is ...6243 - as is confirmed

by HM Passport Office Disclosure (exhibited to Mr Wormald's Statement); and

I would not find it particularly surprising (given what I have said above) if there were a Ravikanth Gupta (notably not "Ravi Gupta") who is either exactly the same age or exactly one year older than the Bankrupt and myself. The Trustee does not exhibit the 'checksum' test (nor even the passport or the photograph) but if the Trustee's Passport no 501505050 is a forgery or contains false information, that has nothing to do with me."

Mr Borra now accepts that the passport was his, having seen the disclosure from the Passport Office. His evidence was that he simply did not recall this passport at the time of his statement. I do not accept this. Extraordinarily, he goes on in his statement dated 2nd March 2021:

"I do not know the Ravikanth Gupta shown on UK Passport no. 501505050, and I had never seen that passport before HMRC forwarded the Trustee's Witness Statements and a copy of the passport."

Again, Mr Borra now accepts that the photograph on the passport is of him. It clearly is. He has not significantly changed in appearance. He has no medical condition that might affect his ability to recognise faces as far as the evidence shows. It is simply beyond the realms of possibility that Mr Borra was genuinely unable to recognise a photograph of himself. In my judgment he lied in his written evidence in order to distance himself from the setting up of the Monomarks Address as Mr Gupta's service address.

77. For completeness I should mention Mr Gutpa's oral evidence in relation to the application for the British Monomarks service. He said that the application was made by Mr Murthy on his behalf as he could not do so himself. The telephone number for the purposes of the application was given to him and he did not know whose it was. Mr Gupta at first said that he had not paid anything for the service but then said that he had paid cash. He did not explain that further. He was in India, the application was made through a website and British Monomarks is in London.
78. This is also at odds with his statement, dated 16th September 2020, which says that he did not make the October application at all. Rather he made an application for a service costing £177 in July 2020. He says this:

"the application form they mentioned is not my application form to the British Monomarks firm for mailbox. This application added in the exhibits Pg 83 is not my application form. Please note the difference in the application numbers and the details I submitted along with my application are as well added in the exhibit. I asked for scan and email of all post not just post as alleged by trustee solicitors here."

British Monomarks have confirmed that the application to which Mr Gupta refers was made on 29th July 2020 and was not progressed because it was not paid for. No

identification documents were provided. The only completed application in the name of Ravikanth Gupta was that made in October 2019. I reject Mr Gupta's alternative account.

79. I am satisfied that Mr Borra was responsible for signing up for the Monomarks mail forwarding service. The evidence is again really all one way. The telephone number is his, the email address is his, the payment card is his, the forwarding address is that of an associate and the passport is a doctored version of his own, which he reported to the Passport Office to be lost but must have retained or recovered. If this were part of some elaborate attempt by an unknown third party to implicate Mr Borra it would be inept in the extreme. He would realise that something was wrong the moment his card was charged. Nor would there be any reason to doctor the number of the passport.
80. The reason why he subscribed to this forwarding service becomes obvious from consideration of the documents, purportedly emanating from Mr Gupta, that give the Monomarks Address as his service address. First, there is an email dated 31st July 2020 from an address with the username "ravikanthgupta5", which was sent to the solicitors for the trustee. It was as follows:

"Dear Madame

Good day. I have put in a request for extension of my application which was listed for hearing 10 Aug 2020.

I here by enclose my request for extension and letter of request. These are filed on CEFile as well

Hoping for your kind consideration

thanks

Ravikanth Gupta"

CE-File is the court's electronic filing system by which litigants can file documents with the court and the two attachments to the email, to which Mr Gupta refers, were submitted to the court. The attachments are Word documents called "ExtnLetter.docx" and "ExtensionApplication.docx".

81. ExtnLetter.docx is addressed to a judge of this court and is dated 30th July 2020. It says as follows:

"Sir/Madame

I Ravikanth Gupta, here by am requesting for an extension on the hearing listed on 10 Aug 2020

I was not well and moved to hospital and then to quarantine facility because we had one person in my household tested for covid+ve. We were kept under supervision for two weeks and were allowed to come back this week. I could not work on anything related to the case matter till date

I am also waiting for answers from HMRC team regarding the claim and the case documentation, and without which I would be unaware of why this claim is being pursued now after 12yrs

I have put in an application for extension and requested the same from the claimants as well

I have submitted my ID documents as required but this could not be done before 14 Jul as I was not available, as stated above. Apologies

Thanks and Regards

Ravikanth Gupta

Defendant”

As anyone who has a reasonable level of familiarity with Microsoft Word documents is aware, it is the work of a moment to see the username of the person who created the document and who modified it. This information is sometimes referred to as “metadata” but, despite this rather technical name, there is no special skill required to see what are often described as the document properties. One simply clicks on “File” and then “Info” to see the document properties, including the date it was created and last modified and the username of the author. There is a screenshot of the document properties window in the bundle that shows that, in the case of this letter, the author is “borra ravi gupta”. That user is also shown as the last person to modify the document.

82. ExtensionApplication.docx is an application notice to the court dated 24th July 2020 seeking an adjournment of a forthcoming hearing. It does not comply with all the rules for such notices but it is plainly intended to be a formal application notice. It has the court heading and then provides:

“Take notice that I intend to apply to the Judge

For an order that the hearing of the my application filed on 11 May 2020 be extended by a period of 56 days on the grounds that it has not possible to get any documentation from HMRC solicitors nor establish any communication with the HMRC team despite multiple attempts to do so and that the costs of this application be provided for.”

Again, the screen shot of the document properties window again shows the author of the document to be “borra ravi gupta” and that the document was last modified by the same person. The same username is shown as the author of letters dated 25th August 2020 and 11th September 2020 purportedly signed by Mr Gupta and sent from the email address with the username “ravikanthgupta5”.

83. The username “borra ravi gupta” is of course Mr Borra’s original surname followed by the forename and surname that he adopted. It appears as the display name for Mr Borra’s email address in the correspondence with Gordons in connection with the Nine Elms purchase and the trustee’s request for delivery up of the conveyancing file. It

would be a most unlikely coincidence indeed for this username to be used by anyone in these proceedings other than Mr Borra and, in my judgment, it is not a coincidence at all.

84. If that were not enough, on 29th July 2020 Mr Borra emailed the court copying in the respondents' representatives. He said as follows:

“Dear Sir/Madame

Good day.. I did sent my witness statement on email and on post.
But I still dont see this on CEFile

The hearing is scheduled for 10th Aug .

thanks

Ravikanth Borra”

I note that, as in Mr Gupta's email to the court, the extraneous “e” at the end of “Madam” appears, and he omits the hyphen in “CE-File”. The document attached is a PDF, not a Word document, but the process of identifying its creator is equally straightforward. The screenshot of the document properties panel exhibited by Ms Brittain shows the author to be “raavi”. Mr Borra indeed accepts that to be a document produced by him.

85. Witness statements in Mr Gupta's name dated 11th September 2020 and 16th September 2020, also in PDF format and emailed to the respondents' representatives, also show the author to have been “raavi”. In both cases therefore the user has chosen an all lower case name with the distinctive double “a”, which also appears in the raavi05@outlook.com address. This again is a coincidence too far.
86. I reject Mr Vinson's submission that the authorship of the documents is a matter for an expert. I can see that this might be so if there were an allegation that the document properties information had been tampered with. There is no such allegation here. What I am being asked to do is note the identical usernames shown for the authors of both the Microsoft Word documents and the PDF documents available in their native formats to the trustee and draw conclusions from them.
87. There are other indications of documents produced by Mr Borra and Mr Gupta having a common author, even where the trustee does not have access to the document properties of the electronic file. Mr Borra was taken to the application notice that he filed on 16th May 2020 for annulment of the bankruptcy order. After the court heading it contains the following words:

“IN THE MATTER OF SECTION 282(1)(a)
AND IN THE MATTER OF THE INSOLVENCY ACT 1986”

It is unusual for the section of the 1986 Act to appear by itself after the words “In the matter of” and then to be followed by the words “And in the matter of the Insolvency Act 1986”. The form then includes the following:

“The Applicant seeks the following order:

Upon reading the application and supporting evidence filed

And under Section 282(2) of the Insolvency Act 1986”

The reference to section 282(2) of the 1986 Act is an error. It is of no relevance to the annulment that Mr Borra is seeking.

88. Mr Gupta’s application dated 8th May 2020 is exactly the same on both counts. It contains the same unusual heading and the mistaken section reference. Mr Borra’s evidence initially was that this wording appeared on a publicly available form but he later said that he must have copied it from Mr Gupta’s application. I do not believe either of these answers. Taken with the authorship of the documents to which I have referred, I am satisfied that Mr Borra produced both documents.
89. Similar shared mistakes appear in other places. Mr Borra’s email to the trustee, dated 27th February 2020, refers to the trustee’s solicitors as “Edwin and Coe” rather than as Edwin Coe. The same mistake appears in a letter from Mr Gupta, dated 11th September 2020, which is addressed to “Edwin and Coe LLP”. Again, on 27th February 2020, an email from Mr Gupta to the trustee expressed confusion as to how the petition debt was calculated. He said:

“I do have access to the CEFile system which is electronic filing of the court case, but there is not much information there other than the petition which asks for amount of 145,492 which is made up of tax dues from 2009-2015”.

This is another error. The petition referred to tax due from 2009 to 2017, not 2009 to 2015. Mr Borra’s witness statement of 27th February 2020 makes the same error as to the end of the period. He says:

“The claim is made by HMRC for tax defaults by RAVIKANTH GUPTA for period 2010-2015.”

90. In my judgment Mr Borra is the author of Mr Gupta’s applications and statements filed at court. Word documents purportedly filed by Mr Gupta show Mr Borra’s username, PDF documents show the same username in respect of documents lodged by Mr Gupta and Mr Borra and emails and application notices contain the same errors. I am satisfied that they were created by the same person and that person was Mr Borra. It is all of a piece with his dishonest approach to the trustee in the aftermath of the bankruptcy in which he tried to give the impression that the two emails he sent within an hour of each other were sent by two different people.

Conclusions

91. In my judgment the person in respect of whom tax assessments were raised, against whom the bankruptcy petition was presented and against whom the bankruptcy order was made is Mr Borra, whose legal name is “Ravi Gupta” but who also goes by the name of “Ravikanth Borra”. He also uses the name “Ravikanth Gupta”, as he has done in these proceedings to create the impression that he has innocently been drawn into these proceedings as a result of mistaken identity. It is entirely probable that he would have used the name “Ravikanth Gupta” prior to his formal change of name in 2011.

92. The person calling himself Ravikanth Gupta who appeared before me by video from India has nothing to do with the petition or the debts on which it was based as far as the evidence before me goes. He is a front for Mr Borra. Mr Gupta's claim that he is the person who is subject to the proceedings is a lie. Mr Borra set up the Monomarks Address as a service address and filed applications and documents in Mr Gupta's name. I am entirely satisfied that Mr Gupta had nothing to do with them and that the fabrication of these applications and witness statements was a grossly dishonest attempt by Mr Borra to bolster his own applications. Mr Borra has sought to mislead and deceive the court in a manner more transparent and brazen than I have ever before encountered.
93. I am similarly satisfied that he had notice of both the assessments to tax and the bankruptcy petition. The notices were sent to addresses that he used and I am satisfied that the petition would have come to his attention when served at 480 Upper Richmond Road.
94. In the result I dismiss Mr Borra's applications. Mr Gupta's applications were stayed but, since I have determined that he is not the bankrupt, he has no interest in making them and they similarly fall to be dismissed. I will hear counsel as to any other orders that I should make but, given the seriousness of the findings that I have made as to the fabrication of applications and evidence to create a false persona to mislead the court, it is inevitable that I must refer the papers to the Director of Public Prosecutions so that any appropriate further action may be considered.