

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-IV

I.A. 397 (ND) OF 2025
IN

C.P. IB NO. 685 (ND) OF 2022

IN THE MATTER OF:

HARVINDER SINGH
RESOLUTION PROFESSIONAL,
SITI BROADBAND SERVICES PRIVATE LIMITED

...Applicant

Versus

Mr. Anjan Jain
Director (Powers Suspended),
Siti Broadband Services Pvt. Ltd.

... Respondent No. 1

Mr. Ratnakar Sharma
Director (Powers Suspended) of Siti Broadband Services Pvt. Ltd.

... Respondent No. 2

Ajay Kumar
Director (Powers Suspended) of Siti Broadband Services Pvt. Ltd.

... Respondent No. 3

Suresh Bakaria
Director (Powers Suspended) of Siti Broadband Services Pvt. Ltd.

... Respondent No. 4

Archit Kulshreshtha
Director (Powers Suspended) of Siti Broadband Services Pvt. Ltd.

... Respondent No. 5

Pawan Taneja
Director (Powers Suspended) of Siti Broadband Services Pvt. Ltd.

... Respondent No. 6

Suresh Arora
Director (Powers Suspended) of Siti Broadband Services Pvt. Ltd.

... Respondent No. 7

Mukesh Ghuriani
Director (Powers Suspended) of Siti Broadband Services Pvt. Ltd.

... Respondent No. 8

Amit Kumar Gupta
Director (Powers Suspended) of Siti Broadband Services Pvt. Ltd.

... Respondent No. 9

Ashish Bhatia
Director (Powers Suspended) of Siti Broadband Services Pvt. Ltd.

... Respondent No. 10

Mr. Sandeep Jain
Chief financial Officer
Siti Networks Limited

... Respondent No. 11

Sunil Kumar Maheshwari.
Erstwhile Director of
Siti Networks Limited

... Respondent No. 12

Siddharth Balakrishna
Erstwhile Director of
Siti Networks Limited

... Respondent No. 13

Suresh Kumar
Ex- Director
of Siti Broadband Services Pvt. Ltd.

... Respondent No. 14

Sanjay Berry
Ex-Director
of Siti Broadband Services Pvt. Ltd.

... Respondent No. 15

Anil Kumar Jain
Ex-Director
of Siti Broadband Services Pvt. Ltd.

... Respondent No. 16

Central Bombay Cable Network Limited

... Respondent No. 17

Sanjay Jindal
Ex- Director
of Siti Broadband Services Pvt. Ltd.

... Respondent No. 18

Sanjay Arya
Ex-Director
of Siti Broadband Services Pvt. Ltd.

... Respondent No. 19

Ashish Kumar Singh
Ex-Director
of Siti Broadband Services Pvt. Ltd.

... Respondent No. 20

Siti Cable Network Ltd.
Now
SITI Networks Ltd.

... Respondent No. 21

Amitabh Kumar

**Suspended Director
Siti Cable Network Ltd.**

... Respondent No. 22

**Kavita Anant Kapari
Suspended Director
Siti Cable Network Ltd.**

... Respondent No. 23

**Shilpi Asthana
Suspended Director Siti Cable Network Ltd.**

... Respondent No. 24

AND IN THE MATTER OF:

ADITYA BIRLA FINANCE LIMITED

...Financial Creditor

Versus

SITI BROADBAND SERVICES PRIVATE LIMITED

... Corporate Debtor

Order Delivered on: 01.06.2026

CORAM:

**SHRI MANNI SANKARIAH SHANMUGA SUNDARAM
HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)
PRESENT:**

For the RP : Mr. Abhishek Anand, Mr. Karan Kohli,
Ms. Palak Kalra, Ms. Vanshika Agrawal, Advocates.

For Respondent No.1-2, 4-10, 14-15,18-19

: Mr. Prateek Mishra, Mr. Sumit Singh, Ms. Eira
Mishra, Advocates.

For Respondent No. 11-12, 17, 22-24

: Mr. Kaustubh Rai, Advocate.

For Respondent No.16 : Mr. Amber Sachdeva, Ms. Himanshi Nagpal,
Advocates and CA Anil Kumar Jain.

For Respondent No. 21 : Karan Vir Khosla, Advocate

ORDER**PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)**

1. The present Application has been filed by Mr. Harvinder Singh, Resolution Professional (RP) of Siti Broadband Services Private Limited ('Corporate Debtor') under the provisions of Section 66 of the Insolvency & Bankruptcy Code, 2016 ('the Code') seeking the following reliefs:

a) *Allow the present application;*

In the premises, it is most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to:

a) *Allow the present application;*

b) *In Regards to the Transaction No. 1.1, direct the following Respondents, to pay Rs. 5.683 Crores (Rupees Five Crores Sixty Eight Lakhs Thirty Thousand Only) jointly and/or severally to the Corporate Debtor/ Resolution Professional under section 66 of the Insolvency and Bankruptcy Code, 2016 along with interest at the rate this Hon'ble Tribunal deems fit to award:*

Respondent	Name of the Director	DIN No.
Respondent No.1	Anjan Jain	09537441
Respondent No.2	Ratnakar Sharma	08004776
Respondent No. 14	Suresh Kumar	00010948
Respondent No. 15	Sanjay Berry	06635913
Respondent No. 16	Anil Kumar Jain	07208514

Respondent No. 17	Central Bombay Cable Network Limited	
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c) *That in regards to the Transaction 1.2, direct the following Respondents to pay the amounts as mentioned hereinbelow jointly and/or severally to the Corporate Debtor/ Resolution Professional under section 66 of the Insolvency and Bankruptcy Code, 2016 along with interest at the rate this Hon'ble Tribunal deems fit to award;*

Transaction No.	Respondent No.	DIN	Director during the Relevant Period	Amount to be contributed
I.A, I.C	Respondent No. 1	09537441	Anjan Jain	Joint and several liability to pay a sum of Rs. 74,10,000/- (Rupees Seventy-Four Lakhs Ten Thousand Only)
	Respondent No.2	08004776	Ratnakar Sharma	
	Respondent No. 11	00011667	Sandeep Kumar Jain	
	Respondent No. 18	03526832	Sanjay Jindal	
	Respondent No. 19	07197362	Sanjay Arya	
	Respondent No. 20	07193735	Ashish Kumar Singh	
I.B.	Respondent No.1	09537441	Anjan Jain	Joint and several liability to pay a sum of Rs. 30,00,000/- (Rupees Thirty Lakhs Only)
	Respondent No.2	08004776	Ratnakar Sharma	
	Respondent No. 14	00010948	Suresh Kumar	
	Respondent No. 15	06635913	Sanjay Berry	
	Respondent No. 16	07208514	Anil Kumar Jain	

d) That in regards to the Transaction No. 2 direct the following Respondents to contribute a sum of Rs. 3,19,17,157.54/- (Rupees Three Crores Nineteen Lakhs Seventeen Thousand One Hundred and Fifty-Seven Only) and/ or severally to the Corporate Debtor/ Resolution Professional under section 66 of the Insolvency and Bankruptcy Code, 2016 along with interest at the rate this Hon'ble Tribunal deems fit to award:

RESPONDENT	DIN	Director Name
Respondent No. 1	09537441	Anjan Jain
Respondent No. 2	08004776	Ratnakar Sharma
Respondent No. 3	09821986	Ajay Kumar
Respondent No. 4	09515141	Suresh Bakaria
Respondent No. 5	09532727	Archit Kulshrestha
Respondent No. 6	08728792	Pawan Taneja
Respondent No. 7	00299232	Suresh Arora
Respondent No. 8	07879680	Mukesh Ghuriani
Respondent No. 9	08069127	Amit Kumar Gupta
Respondent No. 10	07988192	Ashish Bhatia

e) That in regards to the Transaction No. 3.a., direct the following the following Respondents, to contribute a sum of Rs. 24,70,000/- (Rupees Twenty Four Lakhs Seventy Thousand Only) either jointly and/ or severally to the Corporate Debtor/Resolution Professional under section 66 of the Insolvency and Bankruptcy Code, 2016 in the manner provided hereinbelow along with interest at the rate this Hon'ble Tribunal deems fit to award:

TRANS ACTION	RESPONDENT	DIN	Director Name/Company Name	Appointment Date
3.A	Respondent No.1	09537441	Anjan Jain	17.06.2022-Present
	Respondent No.2	08004776	Ratnakar Sharma	27.01.2023-Present
	Respondent No. 9	08069127	Amit Kumar Gupta	15.01.2018-09.12.2022
	Respondent No. 10	07988192	Ashish Bhatia	13.11.2017-16.08.2019
	Respondent No. 21		Siti Cable Network Ltd	

3.B.	Respondent No.1	09537441	Anjan Jain	17.06.2022-Present
	Respondent No.2	08004776	Ratnakar Sharma	27.01.2023-Present
	Respondent No. 6	08728792	Pawan Taneja	20.03.2020-10.12.2021
	Respondent No. 9	08069127	Amit Kumar Gupta	15.01.2018-09.12.2022

f) That in regards to the Transaction No. 3.b., direct the following the following Respondents, to pay a sum of Rs. 1,80,80,000/- (One Crore Eighty Lakhs Eighty Thousand Only) either jointly and/or severally to the Corporate Debtor/Resolution Professional under section 66 of the Insolvency and Bankruptcy Code, 2016 along with interest at the rate this Hon'ble Tribunal deems fit to award:

RESPONDENT	DIN	Director Name/Company Name
Respondent No.1	09537441	Anjan Jain
Respondent No. 2	08004776	Ratnakar Sharma
Respondent No. 9	08069127	Amit Kumar Gupta
Respondent No. 10	07988192	Ashish Bhatia

g) That in regards to the Transaction No. 4, direct the following the following Respondents, to pay a sum of 55,69,60,000/- Rupees Fifty-Five Crores Sixty-Nine Lakhs Sixty Thousand Only) either jointly and/ or severally to the Corporate Debtor/ Resolution Professional under section 66 of the Insolvency and Bankruptcy Code, 2016 in the manner provided hereinbelow along with interest at the rate this Hon'ble Tribunal deems fit to award:

RESPONDENT	DIN	Director Name/Company Name
Respondent No.1	09537441	Anjan Jain
Respondent No. 2	08004776	Ratnakar Sharma
Respondent No. 3	09821986	Ajay Kumar
Respondent No.7	00299232	Suresh Arora
Respondent No. 9	08069127	Amit Kumar Gupta
Respondent No. 10	07988192	Ashish Bhatia

Respondent No. 14	00010948	Suresh Kumar
Respondent No. 15	06635913	Sanjay Berry
Respondent No. 16	07208514	Anil Kumar Jain
Respondent No. 21	L64200MH2006PLC 160733	Siti Networks Limited
Respondent No. 22	00222260	Amitabh Kumar
Respondent No. 23	02330706	Kavita Anant Kapari
Respondent No. 24	08465502	Shilpi Asthana

h) That in regards to the Transaction No. 5, direct the following the following Respondents, to pay a sum of Rs. 6.31 Lakhs either jointly and/ or severally to the Corporate Debtor/ Resolution Professional under section 66 of the

Insolvency and Bankruptcy Code, 2016 in the manner provided hereinbelow along with interest at the rate this Hon'ble Tribunal deems fit to award:

RESPONDENT	DIN	Director Name/Company Name	Appointment Date
Respondent No.1	09537441	Anjan Jain	01.05.2023- Present
Respondent No. 2	08004776	Ratnakar Sharma	27.01.2023- Present

- i) Pass Consequential directions against the Respondents for deliberately defrauding the creditors of the Corporate Debtor and diverging funds from the Corporate Debtor to make such contributions to the assets of the Corporate Debtor as this Hon'ble Adjudicating Authority may deem fit including order/directions under Section 67 of the Code;*
- j) Pass such other or further Order/ Order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.*

2. SUBMISSIONS OF THE APPLICANT:

- i.** The National Company Law Tribunal, New Delhi vide its Order dated 31.10.2023 had initiated Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor under the provisions of the Code and appointed Mr. Harvinder Singh as the Interim Resolution Professional ("IRP") of the Corporate Debtor.
- ii.** The Applicant made a public announcement in stipulated FORM A on 05.11.2023, inviting claims from several creditors of the Corporate Debtor in terms of provisions of the Code and Regulations thereof. Pursuant thereto, the Creditors of the Corporate Debtor filed their respective claims before the Applicant wherein, after collation and due verification, the said claims were admitted by the Applicant and subsequently, Committee of Creditors ("CoC") was constituted by the Applicant herein.
- iii.** The 1st meeting of CoC was convened on 09.01.2024 wherein, the Applicant apprised the members of CoC with developments in the CIRP of the Corporate

Debtor. The Applicant was confirmed as the Resolution Professional in terms of Section 22(3) (a) of the Code, 2016 unanimously. in the 1st meeting only, the CoC members, pursuant to Regulation 39(2) & 35A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, approved the agenda for appointment of transaction auditor, PVR N & Co. with the requisite voting share. The Transaction Auditor appointed to review the accounts of the corporate debtor submitted its final report to the Applicant on 20.11.2024 for the review period ("Audit Period") commencing from 01.04.2018 till the initiation of CIRP of the Corporate Debtor vide the order dated 31.10.2023 and the Applicant based on the findings of the Transactional Auditor and basis his opinion, determined various transactions which falls under the scope of Section 43,45,50 and 66 of the Code. Upon receiving the final transaction audit report, the Applicant is filing the present application under Section 66 of the Code.

- iv.** While the CIRP of the Corporate Debtor was commenced vide the Order dated 31.10.2023, the CIRP Process of the Corporate Debtor was subsequently stayed by the order dated 10.11.2023 passed by the National Company Law Appellate Tribunal. That as a result of the stay operating between the period commencing from 10.11.2023 till 20.12.2023, the Applicant could not take any steps pursuant to the initiation of the CIRP of the Corporate Debtor. It is submitted that despite of the fact that the Applicant herein had proceeded to appoint the Transaction Auditor on 15.01.2024 (37th Day of Commencement of CIRP) pursuant to the Resolution being passed by the CoC during the course of the 1st Meeting of the CoC). However, as a result of the continued non-cooperation of the ex-management of the Corporate Debtor in providing requisite documents, there has been an inadvertent delay in finalizing of the Audit Report by the Transaction Auditor. In order to be able to make conclusive determination and for adequate categorization of the Transactions in terms of the Section 66 of the Code, additional time was required by the Applicant.

- v.** It is to be noted that in terms of Section 66(1) of the Code, fraud shall be deemed to have been committed by the Corporate Debtor when the business of the Corporate Debtor has been carried out with an intention to defraud the creditors of the Corporate Debtor or for any fraudulent purpose. The Applicant is duty bound to report to this Hon'ble Adjudicating Authority about the fraudulent transactions as determined where the persons who were knowingly parties to carry on the business in such a manner and to hold them liable to make such contributions to the assets of the Corporate Debtor. Furthermore, under the provisions of Section 66(2) of the Code, the director or partner of the Corporate Debtor shall be held jointly and severally liable to make a contribution to the assets of the Corporate Debtor, if such director or partner knew or ought to have known that there was no reasonable prospect of avoiding the commencement of CIRP and if such director or partner did not exercise due diligence in minimising the potential loss to the creditors of the Corporate Debtor.
- vi.** It is submitted that the Corporate Debtor was in a state of financial distress at the time when the Application under Section 7 of the Code was filed by Aditya Birla Finance Limited for initiation of CIRP. Rather than acting in the best interests of the Corporate Debtor and its stakeholders, the Respondents with a fraudulent intention engaged in activities such as fraudulent trading, failing to address recovery of outstanding advance balances, ignored and siphoned the collection of overdue debts from outstanding debtors and conducted interparty transactions performed to misappropriate funds from the creditors of the CD. The same can be clearly identified in the books of the Corporate Debtor and the accounting statement. Therefore, the actions of the Respondents attract liabilities under Section 66 of the Code, which addresses fraudulent trading.
- vii.** It is submitted that, there are total 24 Respondents arrayed in the captioned Application and the following are their roles and the transactions involved for the convenience of this Adjudicating Authority:

viii. TRANSACTION 1: OUTSTANDING BALANCE OF ADVANCE GIVEN TO SUPPLIERS AS ON 31.10.2023 AMOUNTING TO Rs. 6,53,54,848/-:

- a. The Corporate Debtor was engaged in the business of providing Internet Services. To further its business objectives, the Corporate Debtor had entered into arrangements with various service providers like Bharti Airtel Limited, Reliance Jio Infocom Limited and other local Service Providers, who provide Bandwidth, point-to-point links and Internet Lease Lines ("ILL") to the Corporate Debtor, which in turn it distributed to the end customers in the form of Internet Services.
- b. As on 31.10.2023, the Corporate Debtor had outstanding advances receivable from its debtors totalling up to Rs. 6,53,54,848/- (Six Crores Fifty-Three Lakhs Fifty-Four Thousand Eight Hundred and Forty-Eight Only).
- c. Upon reviewing the accounts, it was determined that advances to suppliers totalling Rs. 6,53,54,848/- were unrecovered and outstanding as of the commencement date of the CIRP. The examination revealed that multiple ledgers were linked to the same party code, each indicating a balance exceeding Rs. 10,00,000/-. Given the substantial volume of data, reconciling these ledgers was deemed impractical. In the absence of reasonable justification and supporting documentation, the total outstanding balance of Rs. 6,53,54,848/- has, therefore, been classified as falling within the ambit of a Fraudulent Transaction under Section 66 of the Insolvency and Bankruptcy Code, 2016.

ix. 1.1. Transaction with Central Bombay Cable Network:

- a. Central Bombay Cable Network is a related party of the Corporate Debtor. As on date a sum of Rs. 5,68,30,000/- (Rupees Five Crores Sixty-Eight Lakhs Thirty Thousand Only) stands recoverable from the Central Bombay Cable Networks.

- b. The intent of the Respondent No. 1, 2 and 14-16 being the directors of the Corporate Debtor during the relevant period, as inferred from the circumstances, appears to be questionable given the absence of transparency and accountability regarding the advances made to Central Bombay Cable Network Limited (Respondent No. 17). The management's failure to provide any reasonable justification or supporting documentation, despite formal requests, raises concerns about whether these advances were made in good faith and for legitimate business purposes or not. Their reluctance or inability to demonstrate efforts toward the recovery of the substantial outstanding amount of Rs. 5,68,30,000/- (Rupees Five Crores Sixty-Eight Lakhs Thirty Thousand Only) coupled with the lack of disclosure regarding any agreements or contracts that might justify such advances, suggests that the management may have been engaged in activities that could be construed as either negligent or intentionally deceptive. Hence, the said Transaction is liable to be classified as fraudulent transaction as defined under Section 66 (1) of the Insolvency and Bankruptcy Code, 2016.

x. **1.2. Failure to recover the debt amount despite of the fact that the Corporate Debtor was in a state of Financial Distress:**

- a. The outstanding dues of a sum of Rs. 1,04,10,000/- (One Crore Four Lakhs ten thousand Only) can be seen in the accounts of the Corporate Debtor as on 31.10.2023:

Transaction No.	Customer Code	Name of Customers	If the Corporate is a Related Party?	Balance as on 31.10.2023 (In Rs.)	Relevant Period during which the Transaction was undertaken.	Annexure
I.A.	235000	ADV TO VENDORS	No	51,00,000/-	20.11.2015	Annexure A6- A
I.B.	107887	GUPTA TRADING COMPANY	No	30,00,000/-	31.03.2017	Annexure A6- B
I.C.	120485	CASTLENET TECHNOLOGY INC.	No	23,10,000/-	01.01.2016	Annexure A6- C
			Total	1,04,10,000/-		

- b.** The unsubstantiated Transactions amounting to a sum of Rs. 1,04,10,000/- (Rupees One Crore Four Lakhs Ten Thousand Only) was undertaken by the Corporate Debtor during the period between 20.11.2015-01.01.2016. Not only no efforts to recover the said amounts were taken by the present Directors of the Corporate Debtor, but additionally, no documents to substantiate on the said Transactions were provided by the Corporate Debtor.
- c.** The intent of the Respondent No. 1, 2, 11, 14-16 and 18-20 being the directors of the Corporate Debtor during the relevant period, as inferred from the circumstances, appears to be questionable given the absence of transparency and accountability regarding the advances made in the form of advances to vendors, and additional transactions with Gupta Trading Company, Castlenet Technology Inc.
- d.** Further, the present suspended management's failure to provide any reasonable justification or supporting documentation, despite formal requests, raises concerns about whether these advances were made in good faith and for legitimate business purposes or not. Their reluctance or inability to demonstrate efforts toward the recovery of the substantial outstanding amount of 1,04,10,000/- (Rupees One Crore Four Lakhs Ten Thousand Only) coupled with the lack of disclosure regarding any agreements or contracts that might justify such advances, suggests

that the management may have been engaged in fraudulent transaction in terms of Section 66(1).

- e. Further, no attempts were made by the present directors of the Corporate Debtor (powers suspended) (Respondent 1-2), hence such act of the Respondent No. 1-2 could be construed as either negligent or intentionally deceptive and therefore Respondent No. 1-2 are liable to be prosecuted in terms of Section 66(2) of the Code, 2016. Relevant Respondents are provided hereinbelow:

Transaction No.	Respondent No.	DIN	Director during the Relevant Period	Period of Directorship
1.A, 1.C	Respondent No.1	09537441	Anjan Jain	17.06.2022-Present
	Respondent No.2	08004776	Ratnakar Sharma	27.01.2023-Present
	Respondent No. 11	00011667	Sandeep Kumar Jain	09.06.2014-04.07.2016
	Respondent No. 18	03526832	Sanjay Jindal	09.06.2014-16.08.2016
	Respondent No. 19	07197362	Sanjay Arya	30.05.2015-04.07.2016
	Respondent No. 20	07193735	Ashish Kumar Singh	30.05.2015-01.07.2016
1.B., 1.C.	Respondent No.1	09537441	Anjan Jain	17.06.2022-Present
	Respondent No.2	08004776	Ratnakar Sharma	27.01.2023-Present
	Respondent No. 14	00010948	Suresh Kumar	04.07.2016-20.02.2018
	Respondent No. 15	06635913	Sanjay Berry	17.01.2017-31.01.2018
	Respondent No. 16	07208514	Anil Kumar Jain	04.07.2016-21.08.2017

- f. Further, despite of the fact that the Corporate Debtor was in a state of Financial Distress and a Loan Recall Notice had been issued against the Corporate Debtor on the Respondents as mentioned above being the directors during the relevant period have failed to exercise due diligence and recover the debts owed to the Corporate Debtor. Arguendo, even if it is contended that the said transactions were carried out without any mala-fide intent, no steps were taken by the Respondent to recover any amounts. Accordingly, even then the Respondents are liable to be prosecuted in terms of the Section 66 (2) of the Code. It is also significant to note that Respondent as mentioned hereinabove have failed to place on record relevant Documents, Annexures to substantiate on the said Transactions.

xi. TRANSACTION 2: OUTSTANDING BALANCE OF DEBTORS/ CUSTOMERS AMOUNTING TO Rs. 3,19,17,157.54 AS ON 31.10.2023:

- i. During the course of the CIRP, the Applicant undertook a detailed review of the books of accounts and financial statements of the Corporate Debtor. Upon such review, it was observed that certain balances, amounting to Rs. 3,19,17,157.54/-(Rupees Three Crores Nineteen Lakhs Seventeen Thousand One Hundred and Fifty-Seven Only) were recoverable from various customers as on 03.10.2024. These balances pertain to transactions with individual parties where the amounts exceed Rs. 0.50 lacs.
- ii. The ledgers for parties with balances exceeding the specified threshold were reviewed. However, due to the extensive volume of data and the presence of multiple ledgers for the same entities, it was not feasible to reconcile these accounts accurately. The Applicant requested that the management of the Corporate Debtor/Respondents provide the current status of the recoverability of these outstanding balances, along with any supporting documentation detailing efforts made to recover the amounts, including any legal actions initiated against parties deemed

doubtful. Despite repeated requests, the management failed to provide satisfactory explanations or supporting documents regarding the recoverability of the aforementioned amounts.

- iii.** In the absence of reasonable justification and the lack of supporting documents, the Applicant is of the considered view that the outstanding debtor balance of Rs. 3,19,17,157.54 represents a transaction performed with a fraudulent intent, falling under the purview of Section 66 of the IBC, 2016.
- iv.** The Respondents, being responsible for the affairs of the Corporate Debtor, carried out these transactions with intent to defraud the creditors of the Corporate Debtor and to siphon off the funds, which is evident from the inability to substantiate the recoverability of the said balances. The Respondents failed to exercise due diligence in the conduct of business and failed to take appropriate measures to recover the outstanding amounts, thereby acting in a manner detrimental to the interests of the creditors.
- v.** The details of the outstanding balance of Debtors or Customers. 31.10.2023 are as follows:

Customer Code	Name of Customers	Balance as on 31.10.2023
1004	Zee Entertainment Enterprises Ltd.	20,89,627.04
69007740	Hi Tch Cable TV Network	13,08,692.98
69013017	FM New star TV service	9,02,245.38
69009069	One97 Communications Ltd (Paytm)	7,89,445.31
69011378	FM Diamond Cable TV	7,28,973.12
1007	Zee Media Corporation Limited	5,92,625.00
69009369	FM Brothers Broadband Services	5,49,310.15
69011398	FM Sarswati Data Services	4,92,622.62
65000065	Evenness Business Excellence Services	4,88,900.00
69014435	FM Ashwani Kumar	4,86,425.87
69009998	DFM Vohra Entertainment	4,36,975.62
69014439	FM Dharmpal	4,02,222.77
69009977	PAYU PAYMENTS PRIVATE LIMITED	3,82,339.11
69014444	FM Pawan	3,80,957.74
69011210	FM Bhumi Cable Network	3,72,883.21
69009288	Sai Net Services	3,56,448.42
69010342	Nagpur Direct Point	3,39,377.62
69010181	FM Digital Cable Network	3,36,844.84
69007858	Sethi Home Entertainment Services	3,24,946.32
69012813	FM Ebiz Networking Services	3,13,380.73
69007248	Hargovind network	2,85,570.15

69011982	FM S K Vision Varansi	2,77,754.61
69008844	Prime Services	2,75,619.25
69010184	FM Hira Cable Network	2,64,555.78
69009407	FM A Plus Cable	2,60,137.54
69014441	FM Kuldeep	2,50,846.00
69011011	FM YPS Enterprises	2,49,583.68
69008897	GN Enterprises	2,43,073.08
69010274	FM Sumit Cable Network	2,42,808.56
69011397	FM Sameep Darshan	2,42,140.21
69011699	FM H A Cable Network	2,34,542.97
69009993	FM Ganesh Vision Cable TV Network	2,28,559.70
69010889	FM Ram Karan Yadav Cable Network	2,27,909.28
69009380	FM Jyoti Cable Network	2,20,589.04
65000074	SITI NETWORKS LTD - NOIDA	2,19,605.14
69013034	FM Thakur Cable Network	2,18,541.00
69012139	SNL-South Delhi (AJN)	2,18,188.65
69009686	FM Pramod Cable Network	2,12,128.47
69007757	Gaur Cable	2,11,963.16
65000085	INDIADOTCOM DIGITAL PRIVATE LIMITED	2,10,000.00
65000076	QG EBS PRIVATE LIMITED	2,08,270.00
69010576	FM Manoj Cable Networks	1,91,789.70
69010183	FM Sanjay Cable Network	1,82,399.90
69009456	FM Deepak Cable	1,82,215.78
65000092	HOTEL AMBROSIA	1,76,056.00
69010185	Fm Kiran Electronic Works	1,75,207.83
69010457	FM Sure Marketing Concept India Ltd	1,74,077.06
69011683	FM Speed Next Broadband Services	1,72,445.99
1006	Zee Entertainment Enterprises Ltd.	1,71,390.61
69010492	FM Swastik Cable Network	1,70,846.75
69011681	FM Jai Maa Cable	1,67,110.31
69013697	FM CNN Network	1,65,617.00
69010696	FM Bablu Cable Network	1,64,747.77
69011526	FM Swati Cable Network	1,61,600.63
65000105	Megatel Networks Private Limited	1,59,900.00
65000066	Today Merchandise Pvt Ltd	1,58,460.76
69009645	FM Bajrang Cable	1,53,924.20
69012435	FM Himanshu Cable Network	1,53,378.60
69010276	FM S.K Siti Cable Network	1,50,864.54

69010583	FM Hariom Cable Network	1,49,858.90
69011041	FM Gaurav Cable Network	1,49,498.15
69010887	FM Ansh Cable Network	1,43,821.44
69010744	FM N T Vision	1,43,769.30
65000064	Essel Infraprojects Limited	1,40,126.00
69013885	FM S L Broadband	1,37,829.58
69010717	FM Amit Cable Network	1,36,242.27
69010740	FM Ninehills Net Provider	1,33,569.77
69011990	FM Super Digital Cable Network	1,33,274.59
69010726	FM R S Enterprises	1,26,227.05
69010189	FM Kanha Network	1,24,865.88
69012230	FM Saya Broadband	1,24,341.32
69011407	FM Usha Cable	1,19,393.27
69010728	FM Satellite Vision Network	1,19,377.48
69010186	FM Setia Cable Network	1,18,685.71
69011983	FM Om Electronics	1,17,697.28
69010269	FM Naresh Verma Cable Network	1,17,265.32
69011514	FM Priyam Cable Network	1,16,155.89
69013504	FM R K Internet	1,16,147.67
65000082	National Internet Exchange of India	1,11,793.20
69010109	FM RK Link Channel	1,11,389.93
69010835	FM Sure Marketing Concept India Ltd	1,11,312.41
69011570	FM Methab Vision	1,11,087.09
69015098	FM Sinha Cable Network	1,10,686.00
65000088	Mai Labs Private Limited	1,10,170.00
69010180	FM Raj Broadband Network	1,10,080.04
69009459	FM Star Communication	1,09,907.04
69012811	FM Pooja Broadband	1,09,408.65
69015100	FM Yatendra Kumar	1,08,100.00
69014434	FM Devendra Kumar	1,08,053.48
69011989	FM Manju Cable Network	1,08,037.13
69011212	FM Sun Infotech Services	1,03,642.46
69010727	FM New Star Vision	1,02,266.78
69010433	F M S R Enterprises	1,01,798.28
69011498	FM Brothers Enterprises Services	98,854.81
69006163	POOJA CABLE NETWORK	96,992.96
69010745	FM Gold Line Cable Network	96,498.32
69014492	FM Shubham Infotech	92,614.36
69010334	FM Monika Cable Network	90,657.02

69011495	FM Ranjan Cable Network	90,570.49
69012578	FM Globe Vision Delhi	90,310.00
69010752	FM Connect all Broadband Internet s	90,067.12
69011027	FM Shiv Cable Network	89,173.52
69010756	FM Ravi Vision Cable TV Networks	87,874.15
69014502	FM Satish Kumar	87,694.82
69012515	FM Friends Cable Network Nagpur	87,632.00
69009457	Galaxy Cable Cable TV Network	87,530.80
69010275	FM Dhingra Cable Network	87,092.36
69010337	FM Suraj Communication Cable Network	83,100.25
69010761	FM New Asha Cable	82,523.54
69014316	FM Nanu Aadi Net Cable	82,004.27
69010339	FM Kartik Telecom Services	81,741.98
69012598	FM Yogita Internet	81,648.82
69012345	FM Vinayak Retails	81,072.05
69010865	FM Krossway Internet Services	80,528.11
69010990	FM Azad Warsi Cable Network	80,400.78
69015095	FM Krishtel Internet Services Pvt L	80,055.00
69012375	FM Arjun Cable TV Network New	79,606.36
69011187	FM K.R. Cable Network Services	79,206.14
69009841	FM Saini Cable Network	79,025.20
69010735	FM Krishtel Internet Services	78,839.28
69011379	FM Dinesh Cable Network	78,710.35
69011513	FM Paramjeet Cable Network	78,048.31
69011384	FM Jatin Cable	77,341.02
69010565	FM Kushal Broadband Services	76,700.52
69009683	Bunny Cable	76,322.35
69010490	FM Jagat Kishore Cable	76,045.85
69012592	FM Raju Internet and Wifi Service	75,687.00
69014145	FM Sunil Network	75,037.34
69012373	FM Shiv Shanker Cable Network New	74,797.46
69010268	FM Nagpal Cable Network	73,457.21
69010566	FM Manya Cable Networks	71,619.90
69010699	FM DAN Broadband Network	71,392.28
69013744	FM Fast Web Communion	71,150.23
69012136	FM Ashish Deviprasad Bajpai	70,692.40
69011205	FM Khushi Cable Network	70,644.22
69009514	FM GN Enterprises	70,536.63
69010436	FM Bhoomi Cable Network	69,279.12

69010995	FM R K Vision	69,185.46
69010458	Fm Vinod Star Vision	69,045.80
69010445	FM Rama Cable Network	69,000.60
69010997	FM Star Broadband Services	68,933.75
69009409	FM Khari Cable Network	68,516.81
69014575	FM Dass Cable Networks 2	67,831.00
65000068	The Central Park	67,802.00
69011666	FM Sai Broadband And Cable Net Serv	67,590.19
65000072	SITI NETWORKS LTD - INDORE	67,567.98
69010271	FM Pardeep Shri Balaji Cable Networ	67,309.36
69012767	FM Rapti Net Band Gorakhpur	67,303.81
69010880	FM Aarush Broadband	67,146.80
69015093	FM Kajal Broadband	66,200.00
69012838	FM Star Dish Network	66,135.25
69010872	FM Bhati Cable Network	65,966.98
69014437	FM Ajit Saini	65,932.26
69012225	FM Alnoor Traders and Cable Network	65,919.91
69009408	FM Sonia Digital Cable	65,555.06
69012370	FM My Net Broadband Services	65,264.05
69011015	FM V Link U Cable & Internet Servic	64,659.67
69012374	FM Jai Maa sarswati Digital Cable N	64,437.22
69010494	FM R.S Globe Vision	63,830.85
69010855	FM Ajay Cable Network	63,616.64
69010746	FM Om Cable Network Kanpur	63,564.34
69012049	FM Parvez Cable Network	63,453.25
69014627	FM Badre Cable Network	63,259.00
69012369	FM Speed Wifi Network Solution	62,961.50
69010438	FM Garvy Enterprises	62,953.59
69011529	FM Vijay Cable Network	62,945.10
69012815	FM Shakti Communication Networks	62,787.00
65000099	LIBERIUM GLOBAL RESOURCES PVT. LTD.	62,432.90
65000073	SITI NETWORKS LTD - MUMBAI	62,385.42
69010343	FM MD Cable Network	62,230.57
69010577	FM Shri Trikuta Enterprises	61,878.01
69011814	FM E 24 Cable Network	61,846.73
69012212	FM Sameep Darshan 2	61,624.70
69012451	FM New Cine Cable Network New	61,560.17
69011009	FM Yashasvi Broadband	61,182.95

69010115	FM Seven Sea Digital Network	59,960.88
69012576	FM Sai Cable Network Nagpur	59,482.70
69009550	FM Ashmeet cable	58,834.90
69010270	FM Nehra Cable Network	58,708.12
69014436	FM Rakesh Kumar	58,703.00
69010562	FM Shiva Cable Networks	58,079.95
69010743	FM Shivam Cable Network Karnal	58,039.02
69013340	FM Anjali Network	58,017.97
69006130	SHRI KRISHNA CABLE NETWORK	57,010.07
65000080	Tata Communications Ltd.	57,003.28
69011512	FM New Vision Internet service	56,969.89
69011695	FM Sheshrao Viswanath Katole	56,843.03
69012748	FM M Tech Digital Cable Net	56,078.00
69010698	FM PS Broadband Networks Ltd	56,067.53
69010579	FM Aniket Vision	56,013.25
69010553	Fm Deluxe Cable Network	55,537.83
69009119	RAFTAR COMMUNICATIONS PVT LTD	55,407.76
69010281	FM Khatkar Cable Network	55,078.33
69015092	FM Gee-Net Broadband Services	54,330.00
69009377	FM Prince Cable Network	53,929.83
69012840	Fiza Net Services	53,875.00
69009375	FM Ganpati Cable Network	53,744.04
69013871	FM Shiva Security System	53,493.00
69013540	FM Gandhi Broadband	51,845.11
69011831	FM Shivam Cable Network Delhi	51,659.96
69010447	FM S J Max Studio	51,498.38
69010437	FM Bittu Cable Network	50,948.48
69010567	FM Vinay Singh Networks	50,812.84
69012132	FM Irfan Cable Network	50,810.25
69011395	FM Ram Niwas Cable Network	50,238.73
	Total*	3,19,17,157.42

vi. Based on the figures reflected in the Corporate Debtor's books of accounts, and given the absence of any legal action by the Management or any satisfactory explanation for the transactions in question, the Applicant' opinion concurs with the Forensic Auditor's conclusions. The Applicant asserts that the outstanding balance owed by

debtors/customers, amounting to Rs. 3,19,17,157.42, constitutes-fraudulent transactions under Section 66 of the Code.

vii. Accordingly, the Respondent No. 1 -10 are jointly and severally liable to restore the said amount to the Corporate Debtor or provide a credible explanation justifying these transactions.

xii. TRANSACTION 3: INTERPARTY ADJUSTMENTS AMOUNTING TO Rs. 2,05,50,000/-

a. Inter-Party Adjustments:

I. Upon review of the books of the Corporate Debtor and in concurrence with Forensic Audit Report, the Applicant observed that the several book entries have been recorded by the Corporate Debtor on 31.03.2018 and 30.06.2021 against different parties. These transactions were nothing but adjustments between the CD's Creditors and Debtors and are referred to as Inter-Party Adjustments. Specifically, inter-party adjustments amounting to Rs. 24,70,000/- were identified with individual transactions exceeding Rs. 5,00,000/-. It is to be noted that no justification, documentation have been provided to the Transaction Auditor and the Applicant herein enabling them to verify the genuineness of such Transaction. The details of these transactions are as follows:

Transaction	Posting Date	Documents No.	Party Debited	Party Credited	Amount (In Rs.)
3.A	31-03-2018	2900004407	Appnit Technologies Private Limited	Siti Cable Network Ltd	15,00,000
3.B.	30-06-2021	1100064103	Fm Aman Cable & Broadband	Fm Aman Cable Vision	9,70,000
	TOTAL	24, 70, 000/- (Twenty Four Lakhs Seventy Thousand Only)			

- II.** For determination of liability qua the above stated transactions, the following Respondents are arrayed as Party to the present Transaction Application:

TRANSACTION	RESPONDENT	DIN	Director Name/Company Name	Appointment Date
3.A	Respondent No.1	09537441	Anjan Jain	17.06.2022-Present
	Respondent No.2	08004776	Ratnakar Sharma	27.01.2023-Present
	Respondent No. 9	08069127	Amit Kumar Gupta	15.01.2018-09.12.2022
	Respondent No. 10	07988192	Ashish Bhatia	13.11.2017-16.08.2019
	Respondent No. 21		Siti Cable Network Ltd	
3.B.	Respondent No.1	09537441	Anjan Jain	17.06.2022-Present
	Respondent No.2	08004776	Ratnakar Sharma	27.01.2023-Present
	Respondent No. 6	08728792	Pawan Taneja	20.03.2020-10.12.2021
	Respondent No. 9	08069127	Amit Kumar Gupta	15.01.2018-09.12.2022

- III.** A perusal of the nature of Transaction raises suspicion regarding the genuineness of such Transaction, it is submitted that the Directors are liable to be prosecuted in terms of Section 66(1) of the Code. Arguendo, even if it is contended that the said transactions were carried out without any mala-fide intent, in light of the fact that despite of the outstanding balances, no steps have been taken by the above Respondents to recover the said amount.

b. Inter-Customer Voucher Adjustment:

- I.** It was observed that another set of transaction in the form of inter-customer vouchers amounting to Rs. 1,80,80,000/- (One Crore Eighty Lakhs Eighty Thousand Only) were recorded on 31.10.2021 and details of these transactions are as follows:

Customers Code	Customers Name	Whether it is a Related Party as per Audit Report?	Amount (In Rs.)
A	<u>Party Debited</u>		
69005302	Noida Zone - Direct Customer	No	4220000
69007696	OM SHANTI CABLE	No	1020000
69010180	FM Raj Broadband Network	No	860000
69011386	FM Karnal Direct Point	No	790000
69006910	A.M CABLE	No	490000
69012172	FM R.N. Cable Network	No	430000
69006554	SS Digital	No	410000
69010748	FM Sunny Cable Vision	No	380000
69009462	FM Multi Communication	No	330000
69009119	RAFTAR COMMUNICATIONS PVT LTD	No	330000
69006128	Sky Net Cable Network (705029)	No	310000
69010576	FM Manoj Cable Networks	No	260000
69011042	FM Shri Balaji Association	No	240000
69011043	FM Sai Cable Network Dehradun	No	240000
69009380	FM Jyoti Cable Network	No	220000
69010454	FM Sindhu Cable TV Network	No	210000
69009407	FM A Plus Cable	No	210000
69011010	FM Tanishka Cable Network Indore	No	20000
69006847	MS CABLE NETWORK	No	180000
69007320	Prem Cable Network	No	<u>160000</u>

69006459	DIAMOND CABLE (716007)	No	160000
69009647	FM Maxiple	No	150000
69010716	FM Universe Broadband	No	150000
69010012	Karnal Hulchul Media Network LCO	No	140000
69010386	FM Worldwide Cable Network	No	140000
69006246	Boomi Cable TV Network	No	140000
69010562	FM Shiva Cable Networks	No	130000
69009457	Galaxy Cable TV Network	No	130000
69010759	FM Anmol Cable Network	No	130000
69008330	Avinash Channel Services	No	120000
69010732	FM Star Cable TV & Internet	No	110000
69010342	Nagpur Direct Point	No	110000
69010332	FM Pooja Cable Network Delhi	No	110000
	Other Parties upto Rs.1 lakh		4890000
	Sub-total		1,80,80,000
<u>B</u>	<u>Party Credited:</u>		
69010729	Direct Point Karnal	No	710000
69009456	FM Deepak Cable	No	700000
69007289	Shri Krishna Cable Tv Network	No	700000
69006129	Saregama Cable TV Network	No	630000
69010554	FM Sunny Cable	No	390000
69009288	Sai Net Services	No	380000
69011378	FM Diamond Cable TV	No	350000
69010181	FM Digital Cable Network	No	300000
69006241	GAURAV CABLE TV NETWORK (716026)	No	300000
69011201	FM Manoj Cable Network	No	250000
69009987	FM SAI CABLE NETWORK	No	250000
69006983	DCN Media & communication	No	240000
69010011	DFM YVN Internet	No	220000
69009514	FM GN Enterprises	No	220000
69007518	Priya Cable TV Network	No	210000

69010550	FM Shri Balaji Communion Delhi	No	210000
69010551	FM Tanishka Cable Network	No	200000
69007977	Sharda Rani	No	200000
69007318	Monty Cable Network	No	190000
69006458	Pradeep Cable N/W	No	190000
69012357	E NET ENTERTAINMENT PRIVATE LIMITED	Yes	170000
69007557	Rajiv Cable TV Network	No	170000
69010453	FM Sindhu Cable Network	No	170000
69010582	FM Om Sai Ram cable	No	150000
69010191	FM Pooja Cable Network Panipat	No	150000
69006724	YASHI CABLE NETWORK	No	140000
69010586	FM Shri Ganesh Cable Network Kanpur	No	140000
69007147	Swagat Communication	No	140000
69008797	Usha Cable	No	140000
69007433	Abir Media Vision	No	140000
69010597	FM Shiva Cable Networks Varanasi	No	140000
69009408	FM Sonia Digital Cable	No	140000
69011990	FM Super Digital Cable Network	No	130000
69007575	Shri Ram Cable Service	No	130000
69006162	M S CABLE TV NETWORK (706016)	No	130000
69008070	Laxmi Cable Network	No	130000
69010459	FM WWT Broadband Network	No	130000
69011820	BB Noida Direct Point	No	130000
69006460	Ankit cable tv network	No	120000
69007868	Ganeshay Cable II	No	120000
69010456	FM Star Cable Network	No	110000
69010573	FM Anmol Cable Networks	No	110000
69010870	FM Malik Cable Network	No	110000
69007776	Eklovey Cable	No	110000
69010279	FM Aman Cable Vision	No	110000
	Other Parties upto Rs.1 lakh		7870000
	Sub-total		1,80,80,000

- II.** Upon scrutiny of these transactions and after viewing the Final Audit report, the Applicant made repeated requests to the management for supporting documents and justifications regarding the above inter-party and inter-customer transactions amounting to Rs. 2,05,50,000 (Rupees Two Crores Five Lakhs Fifty Thousand Only) (comprising Rs. 24,70,000 inter-party adjustments and Rs. 1,80,80,000 in inter-customer vouchers), no satisfactory response or justification has been provided by the Respondents till date to the Applicant. Therefore, the Applicant was of the view that these creditors shown in the books could be fake creditors and have simply been entered in order to deceive the Financial Creditors of the Corporate Debtor. The same is also substantiated by the fact that no recovery efforts were made by the Respondents in order to collect the amount receivable from these parties.
- III.** Taking note on the observations of the Auditor, it can be inferred that the management may have acted with questionable intent regarding the inter-party and inter-customer transactions totalling Rs. 2,05,50,000. Despite repeated requests, the management's failure to provide necessary supporting documents or justifications for these transactions raises concerns about transparency and accountability. The lack of documentation and justification suggests a possible attempt to conceal or misrepresent financial activities, potentially indicating fraudulent intent. This behaviour aligns with the characteristics of those transactions that could be classified as fraudulent under Section 66 of the Insolvency and Bankruptcy Code, 2016, which specifically deals with fraudulent trading or wrongful trading by the management.

IV. In the light of the absence of reasonable justification and supporting documents, as well as failure on part of the directors of the corporate debtor to recover the said amounts, these inter-party transactions amounting to Rs. 2,05,50,000 are reported as falling within the ambit of fraudulent transactions under Section 66 (2) of the Insolvency and Bankruptcy Code, 2016 and thereby rendering Respondent No. 1,2,9, and 10 severally and jointly responsible to make contributions to the assets of the Corporate Debtor accordingly.

xiii. TRANSACTION 4: SALE OF GOODS AND SERVICES FOR AN AMOUNT OF RS. 55,69,60,000/- IN THE FY 2017-18, FY 2018-19, FY 2019-20, FY 2020-21, FY 2021-22, FY 2022-23 AND FY 2023-24:

- a. In the books of Siti Networks Limited (Related Party), an amount of Rs. 26,12,00,000 (Rupees Twenty-Six Crores Twelve Lakhs Only) was recognised as revenue from the Sale of Goods and services during the FY 2017-2018. In the financial statements of the Corporate Debtor, total revenue from Operations for FY 2017-2018 amounted to Rs. 29,66,00,000/- only, against which Siti Network Limited had charged Rs. 26,12,00,000/- (Rupees Twenty-Six Crores Twelve Lakhs Only).
- b. Similarly in subsequent Financial Years i.e. FY 2018-19, FY 2019-20, FY 2020-21, FY 2021-22, FY 2022-23 and FY 2023-24 an amount of Rs. 6,00,00,000/- (Rupees Six Crores Only), Rs. 6,00,00,000/- (Rupees Six Crores Only), 6,50,30,000/- (Rupees Six Crores Fifty Lakhs Thirty Thousand Only), 8,77,20,000/- (Rupees Eight Crores Seventy-Seven Lakhs Twenty Thousand Only), 1,78,80,000/- (Rupees One Crores Seventy-Eight Lakhs Eighty Thousand Only) and 51,30,000/- (Rupees Fifty-One Lakhs Thirty Thousand Only) respectively were recognised as revenue from the Sale of Goods and Services.
- c. Taking note of the observations of the Forensic Auditor, it is inferred that the management has acted with questionable intent regarding the

Related Party transactions amounting to Rs. 55,69,60,000/- Rupees Fifty-Five Crores Sixty-Nine Lakhs Sixty Thousand Only). No documentation, Agreement has been placed on record to substantiate on the nature of goods and services and the terms dictating the Transaction. Further, the Applicant has failed to place on record the calculation and computation elaborating on the said Transaction. Further a bare perusal of the analysis of the Transaction shows that while the Annual Turnover of the Corporate Debtor in the year 2018-2019 was Rs. 29,65,90,000/- (Rupees Twenty Nine Crore Sixty Five Lakhs Ninety Thousand Only) a sum of Rs. 26,12,20,000/- (Rupees Twenty Six Crores Twelve Lakhs Twenty Thousand) was advanced as management fees expense.

- d.** In absence of a valid Agreement, documents supporting the said Transaction, the Applicant herein of the opinion that the said Transaction has been carried out in an attempt to conceal or misrepresent financial activities, indicates fraudulent intent. This behaviour aligns with the characteristics of those transactions that could be classified as fraudulent under Section 66(1) of the Insolvency and Bankruptcy Code, 2016, which specifically deals with fraudulent trading or wrongful trading by the management, thereby rendering Respondent No. 1, 2 and 3 severally and jointly responsible to make contributions to the assets of the Corporate Debtor accordingly. That the Applicant has only been able to locate a document related to a Transaction pertaining to a sum of Rs. 8 Crore transaction between the Corporate Debtor and Siti Networks, the said agreement is not valid and has been signed by only one party.
- e.** It is pertinent to note that upon reviewing the Balance sheets of the Corporate Debtor for the FY 2017-18 to FY 2023-24, the Applicant noted that the sale amounting to a total sum of Rs. 55,69,60,000/-

Rupees Fifty-Five Crores Sixty-Nine Lakhs Sixty Thousand Only) was disclosed in the notes to accounts section..

- f. In purview of above explained transaction the Applicant has observed that following transactions of the company attracts the provisions of section 66 of IBC, 2016:

S. No.	Particulars	Amount
1	Outstanding balance of advances	7,15,90,000
2	Outstanding balance of debtors	3,19,20,000
3	Inter-party transactions	2,24,30,000
5.	Sale of Goods and Services	55,69,60,000/-
	Total	38,71,40,000/-

- g. While the creditors of the Corporate Debtor were struggling with their recovery process and will have to undertake significant write-off on their stakes, the funds of the Corporate Debtor have been diverted through transactions assailed in this application to the prejudice of the financial creditors and other stakeholders.
- h. The above transactions clearly demonstrate that the Respondents have made a misstatement in their balance sheets by not disclosing or providing proper justification the transactions performed with the Related Parties of the Corporate Debtor. The said concealment on the part of the Respondents clearly indicate malicious intent to defraud the creditors under section 66(1) of the Code, the Respondent No. 1, 2, 3, 7, 9, 10, 14, 15, 16, 21, 22, 23 and 24 are liable qua the above-stated Transactions.

xiv. TRANSACTION NO.5: UNDERVALUED TRANSACTION WITH DISH TV INDIA LTD (RELATED PARTY):

- a. The Corporate Debtor provides broadband/ internet services under the Unified License No. 821-154/2014-DS dated January 28, 2015, for ISP (Category A) granted by the Department of Telecommunication, Ministry of Communications, Government of India. Dish TV India Ltd

is a related party as defined under Section 5(24)(A) of the Code since both the Corporate Debtor and Dish TV India Limited are companies of the same corporate group i.e., Essel Group sharing common directorship hence Dish TV is a related party of the Corporate Debtor, is one of the debtors of the Corporate Debtor where an amount of Rs 6,31,00,000/- was outstanding in the books of the Corporate Debtor for the cable and network services provided to Dish TV India Limited by the Corporate Debtor.

- b.** The Respondent No.1 and 2 were appointed as the Directors in the Corporate Debtor on 17.06.2022 and 27.01.2023 and were responsible for conducting all the transactions on behalf of the Corporate Debtor. Their appointment was done well within the relevant period of two years preceding the date of commencement of the Corporate Insolvency Resolution Process of the Corporate Debtor. It is submitted that upon perusal of the available Ledger Balances for the Financial Year 2021-22, it was observed that the director of the Applicant (powers suspended), had written off certain balances of debtors. The details of the amount written off as evident from ledger of the Corporate Debtor is as follows:

Amt. in Lakhs

Name of ledger	Amount w/off
Dish TV India Ltd (Related Party)	6.31
TOTAL	6.31

- c.** Despite of the fact that the Corporate Debtor was in a state of financial distress, instead of proceeding with the recovery of the outstanding amount, the Respondent No.1, 2 proceeded to write-off of a sum of Rs. 6.31 Lakhs existing in the books of the Corporate recoverable from M/s Dish TV India Ltd, a related party of the Corporate Debtor, since both the Corporate Debtor and Dish TV India Ltd, are a part of the same

corporate group, i.e., Essel Group. This relationship heightens the presumption of fraudulent intent of the Corporate Debtor in proceeding with the said Write-Off.

- d.** Therefore, evidently, the directors/ promoters of the Corporate Debtor despite being fully aware of the said factum of default admittedly failed to exercise due diligence in minimizing the potential loss to its creditors and entered into transactions as enumerated above, which on the face of it are transactions to defraud its creditors, with a clear intent to defraud its creditors.
 - e.** Under no circumstances the said transactions can be considered in the normal course of business by any company, which leads to only one conclusion that the above said transactions were carried out with a clear intent to defraud its creditors. The relief as sought shall create equilibrium of assets and liabilities in the fold of the Corporate Debtor. That the reliefs as sought are quintessential to further the object of maximization of value enshrined in the preamble of the Insolvency and Bankruptcy Code, 2016 by salvaging the value of assets entangled in vicious corporate structures designed to defraud creditors.
 - f.** The deliberate attempt of the director of the Corporate Debtor to proceed with the Write-Off is liable to be categorized a Fraudulent Transaction in terms of Section 66(2) of the Code. Hence Respondent No. 1 and 2 are liable to pay a sum of Rs. 6.31 Lakhs to the Corporate Debtor/Resolution Professional.
- xv.** In lieu of the afore-stated facts and circumstances, the Applicant is filing the present application under Section 66 of the Code seeking avoidance of above stated fraudulent transactions. That it is settled position of law that once the transaction is shown to be fraudulent, sham, circuitous or a device designed to defeat the interest of the stakeholders including shareholders, investors, financial creditors, other parties to the contract and also for tax evasion, the court can always lift the Corporate Veil and examine the substance of the

transaction. The Hon'ble Supreme Court in catena of decisions has lifted the veil where the device of incorporation is used for some illegal or improper purpose.

- xvi.** From the aforesaid facts and circumstances, it is a prima facie case of fraudulent transactions under Section 66 of the Code, 2016 and the Respondents are liable to make the contribution in the assets of the Corporate Debtor for an amount of Rs. 63,71,40,000 as deem fit by this Hon'ble Tribunal.
- xvii.** Any transaction which has an adverse bearing on the financial health of a distressed Corporate Person has to be viewed with considerable disfavour. Reliance has been placed on the decision of the Hon'ble Supreme Court in the matter of Anuj Jain Interim Resolution Professional for Jaypee Infratech Limited V. Axis Bank Limited passed in Civil Appeal No. 8512-8527.
- xviii.** Further it is submitted that Regulation 35A of the CIRP Regulations, 2016 has been held to be 'directory' in nature. Reliance has been placed on the decision of Hon'ble NCLAT in Aditya Tibrewal v. Om Prakash Pandey & Ors., Company Appeal (AT) (Insolvency) No. 583 of 2021.

3. SUBMISSIONS OF THE RESPONDENT NO. 1-2, 4-10, 14- 15 and 18 -19:

- i.** The Respondents submitted that the application is mere reiteration of the transaction audit report and fails to meet the test of regulation 35A. An application under Section 66 of the Code must adhere to specific preconditions stipulated under Regulation 35A which mandates:
 - a) In the first instance, the Resolution Professional is required to form an 'opinion' as to whether the corporate debtor has been subjected to a transaction falling within the ambit of Section 66 of the Code; and
 - b) upon formation of such opinion, the Resolution Professional must then proceed to make a 'determination' that a transaction as contemplated under Section 66 has indeed occurred.
- ii.** The provision does not permit the Resolution Professional to mechanically rely on the findings in a forensic or transaction audit report and proceed to file an

application under Section 66 without conducting a meaningful assessment. The Resolution Professional, in line with the Transaction Audit Report, has impleaded many respondents in transactions which occurred when those Respondents were not even associated with the Corporate Debtor. This reflects that the Resolution Professional has shown no application of mind in the present case, and has merely reproduced the Transaction Audit Report as an application. Reliance has been placed on Mr. Anuj Bajpai, RP of Tollways (Ujjain) Private Limited v. Surendra Lodha, Suspended Director & Anr., IA No. 2874 of 2021 in CP No. 4106 of 2018

- iii.** It is well established in law that for the provisions of Section 66 of the Code to be invoked, the Resolution Professional must necessarily demonstrate that:
 - a) the business of the Corporate Debtor has been carried out with intent to defraud the creditors; and
 - b) the Directors participated in carrying on the business of the Corporate Debtor despite knowing likely insolvency of the Corporate Debtor.
- iv.** In this regard, reliance is placed on Suresh Kanan, RP/Liquidator of M/s Scope Properties Private Limited v. Narapa Mohan Reddy & Ors., MA No. 1408 of 2019 in CP No. 1055 of 2018, Union of India v. M/s Chaturbhai M. Patel & Co. [Civil Appeals Nos. 972-973 of 1968], Mr. Shibu Job Cheeran and Ors. v. Mr. Ashok Velamur Seshadri, Company Appeal (AT) (CH) (Ins.) No. 350 of 2021 & IA No. 727/2021.
- v.** However, none of the requirements outlined by the Supreme Court or the Hon'ble NCLAT have been satisfied in the present case:
 - a.** First, apart from making sweeping statements, the Resolution Professional has not shown how any of the Respondents had any 'intent to defraud' the creditors or 'knowingly engaged in carrying on the business of Corporate Debtor with such intent';
 - b.** Second, the Resolution Professional has not even addressed the issue that if the Corporate Debtor had no loans until 26.02.2020, how could any of the Respondents have conducted the business

with an ‘intent to defraud’ prior to February 2020. Despite this, without any explanation, transactions prior to February 2020 have been included in the application, any in many case, Respondents having no association to a transaction have been named against the same.

c. Third, apart from naming various respondents against each of the transactions, the Resolution Professional has indicated no role to these individuals. For instance, at page 21 of the application (Volume 1), all that the Resolution Professional has done is state that he has ‘inferred from the circumstances’ that the role of some Respondents was ‘questionable’.

d. Fourth, it is a common feature of the entire application that individuals have been named merely based on ‘suspicion’ without any explanation of the circumstances or evidence.

vi. Several of the Answering Respondents have been implicated for transactions or time periods during which it would have been impossible for them to foresee or anticipate the initiation of the Corporate Insolvency Resolution Process. In certain instances, the transactions in question occurred as much as five years prior to the commencement of CIRP. To attribute knowledge of an eventual insolvency process to individuals so far removed in time is entirely speculative and devoid of any legal or factual basis.

vii. Several of the Answering Respondents have been implicated for transactions or time periods during which it would have been impossible for them to foresee or anticipate the initiation of the Corporate Insolvency Resolution Process. In certain instances, the transactions in question occurred as much as five years prior to the commencement of CIRP. To attribute knowledge of an eventual insolvency process to individuals so far removed in time is entirely speculative and devoid of any legal or factual basis.

viii. The table below demonstrates the mismatch between the tenure of various Respondents and the transactions they are sought to be implicated for:

Respondent	Tenure as Director	Reference
Respondent No. 1	The Resolution Professional has himself conceded that Respondent No. 1 was appointed as a Director on 17.06.2022. Despite this, he has been impleaded for transactions dated 31.03.2017-2018, including transactions that took place more than 5 years prior to his appointment. Nothing has been shown to indicate that this individual, who was appointed in 2022, had an intent to defraud the creditors.	Pages 24-32, Vol I in Common Reply
Respondent No. 2	This Respondent was appointed 27.01.2023. Despite this, the Resolution Professional has impleaded him within transactions that took place in 2015, 2016, 2017, significantly predating the appointment of Respondent No. 2. Nothing has been shown to indicate how this individual had any intent to defraud the creditors.	Pages 32-41, Vol I in Common Reply
Respondent No. 4	The Resolution Professional has himself conceded that this Respondent had a limited tenure from 09.12.2022 to 02.05.2023. The application has failed to show how this Respondent defrauded the creditors within such a limited tenure, or how he	Pages 41-42, Vol I in Common Reply
	could even have an 'intent to defraud' the creditors during such tenure.	
Respondent No. 5	Same as above, even for Respondent No 5, the appointment tenure was a short period of 11.03.2022 to 09.12.2022 (limited tenure). The application has failed to show how this Respondent defrauded the creditors within such a limited tenure, or how he could even have an 'intent to defraud' the creditors during such tenure.	Pages 42-43, Vol I in Common Reply
Respondent No. 6	Respondent No. 6 was appointed for a period from 20.03.2020 to 10.12.2021. The RP has sought to draw inference against him for not being able to produce documents. No adverse inference can be drawn against an individual for not possessing documents, during CIRP period, when he had ceased to be a Director as early as in 2021.	Pages 43-45, Vol I in Common Reply
Respondent No. 7	Respondent No. 7 was appointed from 03.09.2019 to 31.03.2022. Despite this, the Resolution Professional has drawn suspicion while expecting that this individual ought to have furnished records that predated or fell outside his tenure. Further, Respondent No. 7 could not have been impleaded for transactions preceding his appointment or taking place after his tenure was complete.	Pages 45 - 48, Vol I in Common Reply

Respondent No. 8	Respondent No. 8 only had a tenure from 15.03.2019 to 12.08.2019, which is barely 5 months. Yet, the Resolution Professional has not been able to show how this individual could have 'anticipated' an insolvency which took place 4 years later, or had any intent to defraud as early as in 2019. Moreover, the Corporate Debtor had not even availed a loan until 2020, which is after the said Respondent's tenure was complete.	<i>Pages 48-49, Vol I in Common Reply</i>
Respondent No. 9	Respondent No. 9 had a tenure starting 15.02.2018, and as such, no transaction predating his appointment can be linked to his tenure. The application has failed to show how this Respondent defrauded the creditors within such tenure, or how he could even have an 'intent to defraud' the creditors during such tenure.	<i>Pages 49-55, Vol I in Common Reply</i>
Respondent No. 10	The tenure of this Respondent was from 13.11.2017 to 16.08.2019 while the CIRP commenced in 2023. Yet, the Resolution Professional has not been able to show how this individual could have 'anticipated' an insolvency which took place 4 years later, or had any intent to defraud as early as in 2019. Moreover, the Corporate Debtor had not even availed a loan until 2020, which is after the said Respondent's tenure was complete.	<i>Pages 55-60, Vol I in Common Reply</i>

	Further, Respondent No. 7 could not have been impleaded for transactions preceding his appointment or taking place after his tenure was complete.	
Respondent No. 14	The tenure of this Respondent was from 04.07.2016 to 20.02.2018 while the CIRP commenced in 2023. Yet, the Resolution Professional has not been able to show how this individual could have 'anticipated' an insolvency which took place 5 years later, or had any intent to defraud as early as from 2016 to 2018, when the Corporate Debtor had not even availed a loan, and therefore did not have a creditor. Further, this Respondent could not have been impleaded for transactions preceding his appointment or taking place after his tenure was complete.	<i>Pages 60-64, Vol I in Common Reply</i>
Respondent No. 15	This Respondent had a very short tenure from 17.01.2017 to 28.04.2017 (3 months) while the CIRP commenced in 2023. Yet, the Resolution Professional has not been able to show how this individual could have 'anticipated' an insolvency which took place 5 years later, or had any intent to defraud as early as in 2017, when the Corporate Debtor had not even availed a loan, and therefore did not have a creditor. Further, this Respondent could not have been impleaded for transactions	<i>Pages 60-64, Vol I in Common Reply</i>

	preceding his appointment or taking place after his tenure was complete.	
Respondent No. 18	Respondent No. 18 ceased directorship in 2016 while the CIRP commenced in 2023, 7 years later. The Resolution Professional has not been able to show how this individual could have 'anticipated' an insolvency which took place 7 years later, or had any intent to defraud as early as in 2016, when the Corporate Debtor had not even availed a loan, and therefore did not have a creditor.	Pages 64-65, Vol I in Common Reply
Respondent No. 19	Respondent No. 19 ceased directorship in 2016 while the CIRP commenced in 2023, 7 years later. The Resolution Professional has not been able to show how this individual could have 'anticipated' an insolvency which took place 7 years later, or had any intent to defraud as early as in 2016, when the Corporate Debtor had not even availed a loan, and therefore did not have a creditor.	Pages 64-65, Vol I in Common Reply

- ix.** A bare reading of Section 66(2)(a) of the Code makes it clear that liability under this provision arises only if a director, at the relevant time, knew or ought to have known that there was no reasonable prospect of avoiding the commencement of the Corporate Insolvency Resolution Process. The attempt to attribute liability to Respondents for transactions that occurred well before their tenure demonstrates a glaring lack of application of mind by the Applicant. Despite this, no evidence has been shown in the application, or justification given, as to how these individuals had / or continued to have, any role towards defrauding any creditor.
- x.** It is submitted that the transactions were bona fide and in ordinary course of business.
- xi.** Regarding transaction 1.1 - Advance to Central Bombay Cable Network Limited (CBCNL), it is submitted:
- a.** The advance in question was originally extended by Siti Networks Limited to CBCNL pursuant to a bona fide commercial expansion strategy aimed at acquiring broadband businesses from Local Cable Operators. Subsequently, upon incorporation of SITI Broadband, the said advance

was assigned to SITI Broadband, which was specifically tasked with executing the broadband expansion.

- b.** The failure to achieve the intended commercial outcomes arose solely due to genuine business hurdles such as mismatches in valuation expectations, a limited subscriber base, and more competitive offers available from rival market players. The resulting non-recovery of the advance is a consequence of commercial realities and not of any fraudulent conduct. The Resolution Professional has failed to furnish any evidence or proof as to how the said transaction was fraudulent, or intended to defraud any creditor. For the Respondents impleaded in this transaction, the Resolution Professional has not even shown, or even alluded to any role that could be attributed to any of those Respondents.
- xii.** Regarding transaction 1.2 - Advance to Vendors during Financial Distress, it is submitted:
 - a.** The allegation that advances to vendors constitute fraudulent conduct is wholly misconceived. The advances were made between November 2015 and January 2023 in the ordinary course of business for legitimate operational requirements. A substantial portion of the amount was paid to Alcatel Lucent International for obtaining the VBNG application license, which was critical for business operations. A payable balance also remains outstanding to Alcatel Lucent, clearly demonstrating that these were ongoing commercial arrangements and not sham transactions.
 - b.** The Applicant has also deliberately suppressed the fact that in many cases outstanding balances were settled with the efforts of some of the Respondents, which included some entities mentioned in the Transaction Audit Report. This further shows that there was no fraudulent transaction involved.
 - c.** The outstanding nature of these advances arose due to continuing negotiations with vendors regarding service fulfilment. The Respondents

were actively engaged in adjusting these balances against services to be rendered. Mere non-recovery of advances, absent any material showing dishonest intent, does not meet the threshold of fraud under Section 66 of the Code. Nothing to contradict these submissions has been demonstrated by the Resolution Professional.

xiii. Regarding transaction 2 - Outstanding Customer Balances, it is submitted:

- a.** The mere existence of outstanding balances from customers does not establish fraud. As on 31.10.2023, more than 200 customers had outstanding balances, which is a normal commercial occurrence in any business operation. The inability to recover the entire amount does not automatically render the transactions fraudulent. From the table of 'customers' at Paragraph 44 of the Application, it is clear that barring a few, most of the outstanding amounts were largely in the range of INR 50,000 to INR 1,00,000/-. Litigation to recover these amounts could have not only resulted in additional expenditure, many times exceeding that debt itself, but it would have also adversely affected commercial relationships with the said entities. This aspect has been completely ignored by the Resolution Professional.

xiv. Regarding transaction 3 - Inter-Party Adjustments, it is submitted:

- a.** Appnit Technologies: The transaction pertained to commission dues payable by the Corporate Debtor, which were settled by Siti Networks Limited (the holding company) due to insufficient funds in the 14 Corporate Debtor's bank account. The transaction was transparently recorded through proper book entries. The same is verifiable from the Corporate Debtor's Bank Statement as on 30.03.2018 and 31.03.2018.
- b.** FM Aman Cable: This was an inadvertent accounting error caused by similarity in party names, promptly rectified through a journal adjustment with zero impact on the Profit and Loss account. As such, there could not have been any fraud or intent to defraud involved with respect to the case of FM Aman Cable.

xv. Regarding Transaction 3(B) – Inter-Customer Voucher Adjustment, it is submitted:

- a.** The allegation that inter-customer voucher adjustments amounting to Rs.1,80,80,000/- constitute fraudulent transactions is entirely baseless. The Corporate Debtor operates as an Internet Service Provider under a Unified License and provides services strictly on a pre-paid basis, making it commercially impossible to have outstanding subscription receivables or excess advances.
- b.** During routine ledger reconciliation, human accounting errors were identified where excess advances appeared against some customers while outstanding receivables appeared against others. To rectify these errors, a knocking-off adjustment was carried out by debiting and crediting corresponding customer accounts. The exercise had zero impact on the Profit and Loss Account and involved no fund movement or diversion. Such bona fide accounting rectifications cannot, by any stretch, be characterised as fraudulent trading under Section 66 of the Code.

xvi. Regarding Transaction 4 - Payments to SITI Networks Limited, it is submitted:

- a.** The payments made to the parent company represented legitimate reimbursements of substantial capex (approximately 124.42 crores) and operational expenses incurred for the subsidiary's broadband business after the transfer of business in 2015. The gradual decline in invoiced amounts corresponds with SITI Broadband's increasing financial independence. These were routine parent-subsidary transactions, transparently recorded with no evidence of fraudulent intent. The above is proven by a copy of the invoices raised by Siti Networks Limited to the Corporate Debtor. The Corporate Debtor had no infrastructure of its own and had operated based on the infrastructure, expenditure and facilities supplied by Siti Networks Limited.

xvii. Regarding Transaction 5 - Dish TV India Limited, it is submitted:

- a.** The Applicant's claim that Dish TV India Limited is a related party of the Corporate Debtor is factually and legally incorrect. Following the 2008 Essel Group separation, Dish TV came under the Jawahar Goel Group, while the Corporate Debtor remained under the Subhash Chandra Group, with no overlap in promoters, management, or control. The unpaid Internet Leased Line charges arose from unresolved technical issues (PTR/Reverse DNS configuration) that prevented service utilization, a genuine operational impediment, not refusal to pay. The link, though installed, could not be utilised and concerns could not be addressed, resulting in the billing not being honoured. The non-payment thus arose from a genuine technical impediment.

xviii. The Respondents were actively engaged in efforts to recover the outstanding amounts, which had accrued in the ordinary course of business. At no point was there any intent to cause loss to the Corporate Debtor or to confer an undue advantage upon any party. This is substantiated by the successful settlement of advances pertaining to many entities.

xix. With respect to the draft Transaction Audit Report dated 13.06.2024, it is submitted that neither the draft report nor the preliminary findings were shared with the Answering Respondents for their comments or to enable them to furnish relevant documents. In fact, no request for information or documents was made to the Answering Respondents prior to 20.06.2024, i.e., subsequent to the date of the draft audit report. The conclusions drawn in the Transaction Audit Report labeling the transactions as fraudulent appear to be based primarily on the alleged non-availability of documents and information. The Applicant's contention that a fraudulent transaction can be inferred solely from the absence of reasonable justification or supporting documents is wholly speculative and legally unsustainable. Reliance is placed on Mr. Anuj Bajpai, RP of Tollways (Ujjain) Private Limited v. Surendra Lodha, IA No. 2874 of 2021 in CP No. 4106 of 2018.

4. SUBMISSIONS OF THE RESPONDENT NO. 11, 12, 22, 23 AND 24:

- i.** It is submitted that none of these individuals were 'Directors' or 'Partners' of the Corporate Debtor. They were either associated, or employed by the parent company of the Corporate Debtor, "Siti Networks Limited".
- ii.** It is submitted that all allegations concerning transactions prior to 26.02.2020 are misconceived and untenable under Section 66 of the Code. Since there was no loan on the Corporate Debtor before the said date, any such transaction cannot, by definition, be construed as one being undertaken to "defraud the creditors" of the Corporate Debtor. Accordingly, all transactions predating 26.02.2020 fall squarely outside the purview of Section 66 and deserve to be rejected outright.
- iii.** It is submitted that liability under Section 66 of the Code can only be fastened on persons who were running the business of the Corporate Debtor when the alleged fraudulent transactions were conducted. No third party can be held liable under Section 66 of the Code. Reliance has been place on Gluckrich Capital Private Limited v. The State of West Bengal & Ors., SLP (Diary) No. 6732 of 2023.
- iv.** A bare perusal of the IA reveals that it has been filed in undue haste and is, in substance, a mere reproduction of the Transaction Audit Report, bereft of any independent application of mind. The Resolution Professional has failed to form an 'opinion' or make a 'determination' as mandated by the CIRP Regulations.
- v.** No prayer has been sought against Respondent No. 12 in the IA. No specific allegation or liability has been imputed to him. The Resolution Professional has failed to demonstrate how Respondent No. 12 is a necessary or proper party to the present IA.
- vi.** It is submitted that Mr. Sandeep Jain (Respondent No. 11) has no association whatsoever with the Corporate Debtor. He has been serving as the General Manager - Finance & Accounts of the holding company (Siti Networks Limited)

only since 01.08.2023. He was never a Director nor Key Managerial Personnel of the Corporate Debtor or even of Siti Networks Limited.

- vii.** It is settled law that to establish the ingredients of Section 66, the Resolution Professional must establish that the business of the Corporate Debtor was being carried out with an "intent" to "defraud" the creditors, and that persons were "knowingly" carrying on such business with such intent. Reliance has been placed on Suresh Kanan, RP/Liquidator of M/s Scope Properties Private Limited v. Narapa Mohan Reddy & Ors., G. Satyanarayana Murty, RP v. Nikhil B. Parikh & Anr., IA No. 879 of 2019 in CP(IB) No.12/10/HDB/2019, Mrs. Renuka Devi Rangaswamy, RP v. M/s Regen Powertech Pvt. Ltd. The Applicant has miserably failed to discharge the burden of proof. The application is premised entirely on conjecture and vague assertions rather than on any concrete or specific allegations of fraudulent intent on the part of these Respondents.
- viii.** Regarding Management Fees to SNL, it is submitted that The Resolution Professional has incorrectly characterized these payments as fraudulent, without appreciating the underlying commercial rationale and operational reality of the arrangement. The transactions between the Corporate Debtor and its parent company (SNL) were legitimate commercial transactions, undertaken in the ordinary course of business.
- ix.** The Corporate Debtor was incorporated on 09.06.2014 as a wholly-owned subsidiary of SNL to undertake broadband and ISP operations, and pursuant to a Unified License dated 28.01.2015, SNL's broadband business was transferred to it with effect from 01.07.2015. In the initial years, SNL incurred substantial capital and operational expenditure on behalf of the Corporate Debtor, including capex of approximately Rs. 124.42 Crores, which was subsequently recovered through phased invoicing as "management fees." The revenue recorded by SNL from FY 2016 to FY 2024 thus represents reimbursement of expenses incurred for the subsidiary and cannot be construed as fraudulent.

- x.** The decreasing invoiced amounts reflect the Corporate Debtor's gradual financial independence. These transactions are duly supported by documentary evidence, including the Fixed Asset Register and invoices. The absence of a formal agreement does not render the transactions fraudulent in light of consistent records and disclosures. Further, the essential ingredients of Section 66(1) of the Code i.e. intent to defraud and knowing participation by directors, have not been established by the Resolution Professional.
- xi.** The Transaction Audit Report observes that the Respondents have not provided certain justifications/information/documents. However, no such explanations or documents were ever formally sought from the Answering Respondents at any stage prior to the issuance of the audit report.
- xii.** It is the duty of the Resolution Professional to enquire from the Answering Respondents on any information/documents requested by the Transaction Auditor. The Resolution Professional miserably failed to perform this duty.
- xiii.** The Respondents were never furnished with a copy of the Transaction Audit Report. Despite this, the Applicant has arrayed the Respondents without affording them an opportunity to explain the commercial rationale underpinning the transactions.

5. SUBMISSIONS OF THE RESPONDENT NO. 16:

- i.** It is submitted that it is important to determine under section 66 of the Code, whether the concerned person has carried out business of CD with intent to defraud creditors of CD or for any fraudulent purpose. No case was made out that Respondent No. 16 has carried out any business of CD with intent to defraud creditors of CD or for any fraudulent purpose.
- ii.** The Resolution Professional has failed to produce any evidence or conduct on the part of answering Respondent that answering Respondent has involved in any wrongful or fraudulent trading.
- iii.** Respondent No. 16 was merely an employee of Respondent No. 21 that is M/s SitiNetwork Limited and has been appointed as nominee director for its various subsidiary/joint venture companies by Respondent No.21.

- iv.** A nominee director can be held liable only in respect of such acts of omission or commission by a company which had occurred with his knowledge, attributable through Board processes, and with his consent or connivance or where he had not acted diligently. Therefore, a nominee director cannot be held vicariously liable in absence of clear and specific allegations. Reliance is placed on Section 149 of the Companies Act, 2013 and the decision of the Hon'ble Delhi High Court in the matter of Bhardwaj Thuiruvenkata vs Ashok Arora in CRL.M.C. 2760/2016 & & CrI.M.A. 11755/2016.
- v.** It is submitted that none of the alleged fraudulent transactions even fall under directorship of the answering respondent i.e. 04.07.2016 to 21.08.2017. The Respondent was not involved in the operations of the Corporate Debtor during the Financial Year 2017-18 (01.04.2017 to 21.08.2017). As a matter of compliance he participated in various meetings of the Board of Directors of the Corporate Debtor held on 05.05.2017, 22.05.2017, 28.06.2017, 21.07.2017 and 09.08.2017 wherein none of the alleged Fraudulent Transactions of the Applications were ever referred to the Board or deliberated in such meetings.
- vi.** The Respondent No. 16 was not a Director of the Corporate Debtor during the audit period. The Transaction Auditor himself has clearly stated in his Audit Report that the Answering Respondent was a Director of the Corporate Debtor before the Audit Period. It seems that the applicant Resolution Professional inadvertently made the undersigned as respondent.
- vii.** After cessation of his directorship of the Corporate Debtor on 21.08.2017 as well as his employment with Respondent no. 21 on 04.09.2017, the answering respondent has no access to any information, records, systems relating to the Corporate Debtor for any period.
- viii.** The Resolution Professional has classified certain transactions as fraudulent transactions purely on assumptions and presumptions basis. He reported the transactions to be within the ambit of Fraudulent Transaction under Sec 66 of the Code. The only reason cited by the auditor and the applicant for such

assumption is that no justification and supporting documents were provided by the suspended directors to the auditor.

ix. Regulation 35A of the CIRP Regulations require the resolution professional to form an opinion on whether the corporate debtor has been subjected to any transaction covered under Sections 43, 45, 50 and 66 of the Code and where such opinion has been formed, the resolution professional can make a determination and is subsequently required to apply to the adjudicating authority for appropriate relief. It is not brought on record as to how the Applicant formed such opinion. He has merely referenced the Transaction Audit Report which itself is a faulty report. Major issues brining unreliability to the report are as follows: -

- a.** The title of the Audit Report gives impression the audit exercise was Transaction Review Audit however, the Auditor himself has admitted that he did not perform any transaction audit.
- b.** The auditor has inconsiderately accepted the inputs provided by the Applicant without even verifying with the Books of Accounts of the corporate debtor and included deceptive statement in the Transaction Audit Report.
- c.** However, bare perusal of the Audit Report indicate that the Auditor was working on the directions of the Financial Creditor (Bank) instead of the Resolution Professional.
- d.** At page 7 of the Transaction Audit, it is stated that the transaction auditor discussed his observations with the Corporate Debtor and the applicant Resolution Professional and appropriately considered their replies while finalizing his Report. Neither the auditor nor the applicants have placed on record any documents confirming such discussions and the replies of the Corporate Debtor. Moreover, in incase the Applicant considered the Respondent No. 16 to be responsible person for alleged fraud then he should have sought reply before making a conclusive determination.

Neither the Applicant nor the Auditor ever sought any comments/response of the Respondent.

- e.** The auditor was appointed on 09.01.2024 and the Transaction Audit Report was finalized on 20.11.2024 yet the auditor chose to perform superficial audit without performing basic audit procedures.
- f.** On page 90, 91 and 93 of the Transactions Audit Report (page 199, 200 and 201 of the Application under consideration), the Auditor confirmed that he did not find any Preferential Transactions, Undervalue Transactions and Extortionate Transactions.
- g.** This clearly shows that neither the applicant nor the auditors have applied their mind to determine Avoidance and/or Fraudulent Transactions.
- x.** This clearly shows that neither the applicant nor the auditors have applied their mind to determine Avoidance and/or Fraudulent Transactions.
- xi.** The Applicant has failed to place on record any evidence to demonstrate that he ever sought any information or explanation from the answering respondent regarding alleged fraudulent transactions.
- xii.** The applicant has made a blatant false statement in his application that the Corporate Debtor was in a state of financial distress and was declared as a Non-Performing Asset on 31.03.2016. He has failed to place on record any evidence to this effect. Just to array the name of the Respondent as a fraudster in the application the applicant the applicant has maliciously made this misrepresentation before this Tribunal.
- xiii.** The commencement of CIRP of the Corporate Debtor was ordered by this Tribunal on 31.10.2023 which happens to be more than six years after the resignation of answering respondent as director of the Corporate Debtor on 21.08.2017. The applicant has not placed any material or evidence on record to establish any element of fraud, or intent to defraud creditors on the part of respondent.

- xiv.** Neither at the time of signing the facility agreement nor at the time of disbursement of the Loan, the answering respondent was not having any relationship with either the Corporate Debtor or Co-borrower.
- xv.** The Applicant has maliciously alleged the Respondent to have deliberately defrauded the Creditors of the Corporate Debtor and diverted funds from the Corporate Debtor in respect of the 'Transaction no. 1.1', 'Transaction no. 1.2 (1.B)' and 'Transaction no. 4' of the application whereas none of these transactions took place during the directorship of the Respondent.

6. SUBMISSIONS OF RESPONDENT NO. 17:

- i.** It is submitted that in the present matter, the Resolution Professional has failed to apply an independent mind and has merely reproduced the Transaction Audit Report, indiscriminately labelling the transaction as 'fraudulent' without due diligence. The lack of a 'determination' required under Regulation 35A is apparent from the fact that the application is a mere reiteration of the Transaction Audit Report.
- ii.** The transaction involving the Respondent No. 17 (Transaction 1.1) took place in the year 2017, whereas the Corporate Debtor availed the term loan from the Financial Creditor only under the Facility Agreement dated 26.02.2020. Prior to the above date, there was no existing creditor relationship involving the Corporate Debtor, and consequently, all allegations about the Answering Respondent fall squarely outside the purview of Section 66 and deserve to be rejected outright, as there were no creditors in existence to be defrauded at the material time. The Resolution Professional has not even demonstrated how any transaction could have been fraudulent, in 2017, when the Corporate Debtor did not even have any creditors.
- iii.** Section 66 cannot be applied to third party and Respondent No. 17, is neither a Director, nor a Partner of the Corporate Debtor. Reliance has been placed on *Gluckrich Capital Private Limited. v. the State of West Bengal & Ors.*, SLP (Diary) No. 6732 of 2023.

- iv.** It is reiterated that the Application is merely an extraction of the Transaction Audit Report and reflects no additional application of mind. It does not allude to the specific role of any of the Respondents (and Respondent No. 17 in particular) or even show how any of the Respondents had any intent to defraud the creditors. Reliance has been placed on G. Satyanarayana Murty, Resolution Professional for M/s. Parikh Fabrics Pvt. Ltd v. Mr Nikhil B. Parikh & Anr., IA No. 879 of 2019 in CP(IB) No.12/10/HDB/2019, Mrs. Renuka Devi Rangaswamy, RP of M/s Regen Infrastructure and Services Pvt. Ltd v. M/s Regen Powertech Pvt. Ltd and Regen Powertech Private Limited v. M/s Wind Constructions Private Limited & Ors., Company Appeal (AT) (CH.) (INS.) No. 349 of 2022 and Mr. Anuj Bajpai, RP of Tollways (Ujjain) Private Limited v. Surendra Lodha, IA No. 2874 of 2021.
- v.** Regarding Transaction 1.1, it is submitted that:
- a.** The advance was originally extended by Siti Networks Limited ("SNL") to the Answering Respondent with the specific bona fide objective of acquiring Local Cable Operators (LCOs) and facilitating the expansion of broadband business an advance subsequently transferred to the Corporate Debtor after its incorporation.
 - b.** The intended objective, however, could not materialize owing to genuine commercial realities, such as disparities in valuation expectations, a limited subscriber base, and competitive offers from rival providers; consequently, the inability to repay arose solely from these business constraints rather than any fraudulent intent. However, Since the advance was not originally extended by the Corporate Debtor, the inability to recover the same did not have a financial impact on the Corporate Debtor.
 - c.** It is respectfully submitted that the inability to fulfill the commercial objectives and repay the advance arose solely due to these business constraints, and not from any fraudulent act or mala fide intent on the part of the answering Respondent.

- d.** The Resolution Professional has failed to provide any evidence to substantiate allegations of fraud, making the claims purely speculative and unsubstantiated. In the absence of cogent evidence along with reasons to establish fraudulent intent, this allegation remains baseless and must be rejected.
- e.** The Resolution Professional's allegations regarding this transaction are entirely misconceived and fail to establish the 'intent to defraud creditors of the corporate debtor or any 'fraudulent purpose' under Section 66 of the Code.

7. SUBMISSIONS OF THE RESPONDENT NO. 21:

- i.** An application under Section 66 of the Code can only be initiated against the directors or partners of the Corporate Debtor, as the case may be i.e., persons who were knowingly involved in conducting the affairs of the Corporate Debtor in a manner that was fraudulent and detrimental to the interests of the creditors. Therefore, an application under Section 66 of the Code against Siti Network is not maintainable and therefore Siti Network is liable to be dropped from an array of parties. Reliance has been placed on *Gluckrich Capital Pvt. Ltd. v State of West Bengal* 2023 SCC Online SC 1187 and *Usha Ananthasubramanian v Union of India* (2002) 4 SCC 122.
- ii.** It is submitted that Siti Networks is Undergoing CIRP vide order dated 22.02.2023 and Moratorium under Section 14 of the Code is in force. It is submitted that once a moratorium under Section 14 of the Code has been imposed with respect to Siti Networks, no proceedings (whatsoever nature) can be initiated or continued against Siti Networks, including under Section 66 of the Code before any tribunal. Reliance has been placed on *Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs*, Civil Appeal No. 7667 of 2021, *P Mohanraj and ors. v. Mis Shah Brothers Ispat Pvt Ltd*, 2021(6) SCC 258. Therefore, in any event, due to the ongoing moratorium, no proceedings including those under Section 66 can be initiated against Siti Network. Accordingly, on this ground as well, the

Application filed by the Applicant, insofar as it pertains to Siti Network, is not maintainable.

- iii.** Reliance on the Judgment of Rakesh, Kumar Jain, RP of HBN Home Colonizers Pvt. Ltd. v. Jagdish Singh Nain, Resolution Professional of HBN Foods Ltd and ors. CA(AT)(INS) No. 425 of 2022 (HBN Judgment) by the RP is misplaced. the said judgement was passed by the Hon'ble Appellate Authority in the year 2022. However, subsequently, the Hon'ble Supreme Court in Gluckrich Capital (supra) has clearly held that an application under Section 66 of the Code is not maintainable against third parties. In any event, the facts in the HBN Judgment are completely different. The said judgment was passed in the context of transactions undertaken by the resolution professional of a corporate debtor during an on-going CIRP.
- iv.** The Applicant has alleged that Siti Networks was purportedly a party to Transaction 3A (Interparty Adjustments) and Transaction 4 (Sale of Goods and Services). In this regard, it is submitted that the Applicant has merely highlighted that the purported transactions without demonstrating as to how fraud has been committed or played with respect to purported transactions. Reliance has been placed on CS. Ramaswamy v. V.K. Senthil and ors., 2022 SCC OnLine SC 1330.
- v.** with respect to the purported Transaction 3A (Interparty Adjustments), the Applicant has not even alleged fraudulent intent for the purported transaction qua Siti Networks and has specifically averred that it is only the directors (powers suspended) of Siti Broadband who may be liable for the purported transaction. Accordingly, once the Applicant has raised allegations of fraud against the directors of Siti Broadband, it is submitted that Siti Networks cannot be liable for the purported Transaction 3A (Interparty Adjustments).
- vi.** It is submitted that in order to classify the purported Transaction 4 (Sale of Goods and Services) to be covered in the ambit of Section 66(1) of the Code, that the Applicant has simply sought to rely on the 'behaviour' of the

purported transaction, rather than demonstrating as to how fraud has been played by Siti Networks.

- vii.** Siti Networks is undergoing CIRP and in case this Hon'ble Adjudicating Authority passes any order directing Siti Networks make any contributions in respect of the purported Transaction 3A (Interparty Adjustments) and Transaction 4 (Sale of Goods and Services), it would have a detrimental impact on its CIRP, and the creditors of Siti Networks.

8. FURTHER SUBMISSIONS OF THE APPLICANT:

- i.** It is submitted that Section 66 of the Code does not provide any look back period for transactions to be investigated and filed for its reversal. The Resolution Professional has to prove the fraudulent intent of the suspended-Ex-directors of the Corporate Debtor behind the transactions and the same can be filed under Section 66 of the Code. A perusal of the captioned Application preferred by the Applicant before this Adjudicating Authority along with the filed Annexures, shows that the Respondents had entered into the transactions with an intent to defraud its creditors and hence the same is maintainable under Section 66 of the Code. Reliance has been placed on the decision of Hon'ble NCLAT in Mr. Thomas George versus K. Easwara Pillai and Ors. Company Appeal (AT) (Ins) No. 293 of 2021 and Amardeep Singh Bhatia versus Abhishek Nagori and Ors. Company Appeal (AT) (Ins) No. 671 of 2020.
- ii.** It is submitted that the Corporate Debtor was undergoing financial distress much prior to the initiation of the CIRP. The co-borrower, SITI Networks Limited ("SNL"), had admitted in writing its inability to service its financial obligations to other banks and financial institutions, as reflected in various letters and disclosures submitted by SNL to the National Stock Exchange and Bombay Stock Exchange. In light of such default, the Financial Creditor became entitled to recall the subject loan, and accordingly, the loan of Rs. 5 Crores was recalled on 24.05.2022, making the same immediately due and payable.

- iii.** Respondent No. 1-2, 4 to 11 and 14 to 20, with Respondents No. 1-2 currently being members of the Suspended Board of the Corporate Debtor, were responsible for conducting the business and affairs of the Corporate Debtor at different time periods till the initiation of CIRP. During their respective tenures, rather than acting in the best interests of the Corporate Debtor and its stakeholders, the Respondents with a fraudulent intention engaged in activities such as fraudulent trading, failing to address recovery of outstanding advance balances, ignored and siphoned the collection of overdue debts from outstanding debtors and conducted interparty transactions performed to misappropriate funds from the creditors of the Corporate Debtor. The same can be clearly identified in the books of the Corporate Debtor.
- iv.** Reliance has been placed on the decision of Hon'ble NCLAT Shibu Job Cheeran & Ors. Vs. Ashok Velamur Seshadri Liquidator of M/s. Archana Motors Ltd. 2023 SCC OnLine NCLAT 804.
- v.** The Respondents seek to cloak their wrongful and fraudulent transactions under the guise of Bonafide commercial activities undertaken in the ordinary course of business. Respondents have knowingly conducted the business and affairs of the Corporate Debtor in a manner detrimental to the interest of its creditors. They have allowed the value of the Corporate Debtor to depreciate and failed to exercise due diligence in minimising potential losses to the creditors of the Corporate Debtor. Respondents have failed in justifying their claims with supporting documentary evidences at the relevant time, despite repeated requests and representations from the Applicant. Their reluctance or inability to demonstrate efforts toward the recovery of the substantial outstanding advances, payments coupled with the lack of disclosure regarding any agreements or contracts that might justify such advances, suggests that the management may have been engaged in fraudulent transaction in terms of Section 66(1) of the Code. The Directors or Partners are expected to exercise reasonable apprehension and caution while conducting business of the Corporate Debtor and shall also endeavour to

make diligent efforts in minimising losses to its creditors, even before insolvency commencement date when there's no reasonable prospect of avoiding CIRP of the Corporate Debtor.

vi. Below is the tabular rejoinder to the responses of the Answering Respondents:

TRANSACTIONS	REJOINDER
TRANSACTION 1: OUTSTANDING BALANCE OF ADVANCE GIVEN TO SUPPLIERS AS ON 31.10.2023 AMOUNTING TO Rs. 6,53,54,848/-	That the receivables of Rs. 6,53,54,848.00/- from the directors which were due even on the date of the CIRP of the Corporate Debtor falls under the fraudulent act and intent of the Answering Respondents. It is submitted that Answering Respondents has failed to give any justification or annexed any document to prove their case.
TRANSACTION 2: OUTSTANDING BALANCE OF DEBTORS/ CUSTOMERS AMOUNTING TO Rs 3,19,17,157.54 AS ON 31.10.2023.	That the Answering Respondents, being responsible for the affairs of the Corporate Debtor, carried out these transactions with intent to defraud the creditors of the Corporate Debtor and to siphon off the funds, which is evident from the inability to substantiate the recoverability of the said balances. The Respondents failed to exercise due diligence in the conduct of business and failed to take
	appropriate measures to recover the outstanding amounts, thereby acting in a manner detrimental to the interests of the creditors.
TRANSACTION 3: INTERPARTY ADJUSTMENTS AMOUNTING TO Rs. 2,05,50,000/-	From the bare perusal of the transactions, it is clear that these transactions were nothing but adjustments between the Corporate Debtor's Creditors and Debtors and are referred to as Inter-Party Adjustments.
TRANSACTION 4: SALE OF GOODS AND SERVICES FOR AN AMOUNT OF RS. 55,69,60,000/- IN THE FY 2017-18, FY 2018-19, FY 2019-20, FY 2020-21, FY 2021-22, FY 2022-23 AND FY 2023-24.	From the bare perusal of the transactions, it is clear that the Answering Respondents has acted with questionable intent regarding the Related Party transactions. Even in the reply filed, no valid documentation, Agreement has been placed on record to substantiate on the nature of goods and services and the terms dictating the Transaction.
TRANSACTION NO. 5: UNDERVALUED TRANSACTION WITH DISH TV INDIA LTD (RELATED PARTY):	Despite of the fact that the Corporate Debtor was in a state of financial distress, instead of proceeding with the recovery of the outstanding amount, the Respondent No.1, 2 proceeded to write-off of a sum of Rs. 6.31 Lakhs existing in the books of the Corporate recoverable from M/s Dish TV India Ltd, a related party of the Corporate Debtor.

- vii.** With regards to transactions identified and categorised as “Transaction Nos. 1 to 5”, the reluctance or inability of Answering Respondents demonstrate efficacious efforts towards recovery of substantial outstanding dues, coupled with their failure to provide any reasonable justification and supporting agreements, despite repeated formal requests, rightly justifies the conclusion drawn by the Applicant in identifying such dealings as deceptive and conduct of the Respondents as negligent.
- viii.** Furthermore, in addition to the aforementioned reasons, for wrongful and unsubstantiated transactions forming part of “Transaction No. 2 and 3” Answering Respondents have tried to veil their fraudulent dealings under the garb of ordinary commercial operations. For instance, Respondents claim that there were typographical and human errors while recording transaction in the books of account of the Corporate Debtor. Such similar defences adopted by the Respondents throughout their Reply are not only vague but lack substantial merit. The Respondents have failed to provide compelling and justifiable reasons to keep such substantial dues pending till date. Furthermore, no cogent efforts were made by the Respondents to recover even minimum sum of outstanding dues/ charges to tune of approximately Rs. 50,000/-.
- ix.** With respect to the sale of goods and services identified as 'Transaction No. 4', the Answering Respondents have failed to furnish any computation or supporting documentation substantiating the transaction purportedly undertaken by SITI Network Limited (the parent company of the Corporate Debtor) on behalf of the Corporate Debtor and the corresponding repayments advanced in the consideration of the same. In the absence of a valid agreement or documentary evidence justifying the transaction, the Applicant formed the opinion that the same was executed with the intent to conceal or misrepresent the financial affairs of the Corporate Debtor.
- x.** For transactions recorded between the Corporate Debtor and Dish TV India Ltd that is identified and categorised as “Transaction No. 5”. Dish TV had

been identified as a related party to the Corporate Debtor in terms of Section 5 (24)(a)(i) of the Code. Accordingly, it is submitted that, both the Corporate Debtor and Dish TV India Limited were companies of the same corporate group i.e., Essel Group sharing common directorship. That even though the group might have disintegrated in the year 2008, Directors of the respective groups continued to share familial ties and hence Dish TV is a related party of the Corporate Debtor. Furthermore, Dish TV is one of the debtors of the Corporate Debtor where an amount of Rs 6,31,00,000/- was outstanding in the books of the Corporate Debtor for the cable and network services provided to Dish TV India Limited by the Corporate Debtor. Thus, in view of the provisions of the Code, the Applicant has rightly identified the aforementioned transactions to be liable to be avoided under Section 66 of the Code.

- xi.** The contention of Respondent No. 10 that he held the position of Director for only a limited duration is untenable and holds no merit in the present proceedings, particularly in view of the fact that the fraudulent transactions in question continued to be sanctioned and carried out during the tenures of both Respondents No. 9 and 10. They failed to discharge their fiduciary duties and did not act in the best interest of the Company or the Corporate Debtor.
- xii.** The Corporate Debtor was in a state of financial distress much prior to the initiation of CIRP. In fact, the co-borrower, SITI Networks Limited, had admitted in writing its inability to repay financial indebtedness owed to other banks and financial institutions, as disclosed in its communications to NSE and BSE. Consequently, the Financial Creditor was constrained to recall the loan on 24.05.2022, rendering it immediately due and payable.
- xiii.** The Response Letter relied by the Answering Respondents is undated and serious doubts are cast over its veracity and reliability
- xiv.** Further, it is submitted that Respondent Nos. 11-12 and 22 to 24, with Respondents No. 1-2 currently being members of the Suspended Board of the Corporate Debtor, were responsible for conducting the business and affairs of the Corporate Debtor at different time periods till the initiation of Corporate

Insolvency Resolution Process ("CIRP"). During their respective tenures, rather than acting in the best interests of the Corporate Debtor and its stakeholders, the Respondents with a fraudulent intention engaged in activities such as fraudulent trading, failing to address recovery of outstanding advance balances, ignored and siphoned the collection of overdue debts from outstanding debtors and conducted interparty transactions performed to misappropriate funds from the creditors of the Corporate Debtor. The same can be clearly identified in the books of the Corporate Debtor.

- xv.** As per Section 66(1) of the Code, "any person" is liable who has been knowingly a party to the transaction, which was undertaken with the intent to defraud creditors or for any fraudulent purpose. Reliance has been placed on the decision of the Hon'ble NCLAT in Shri Baiju Trading and Investment Private Limited VS. Nandkishor Vishnupant Deshpande (Resolution Professional for Royal Refinery Private Limited), Company Appeal (AT) (Ins) No. 699 of 2021 and Royal India Corporation Limited versus Mr. Nandkishor Vishnupant Deshpande and Ors., Company Appeal (AT) (Ins) No. 137 of 2021. Even the judgment relied upon by the Respondent of Hon'ble Supreme Court in the matter of Gluckrich Capital Private Limited v. The State of West Bengal & Ors., SLP (Diary) No. 6732 of 2023, only provides that the Section 66 Application is not maintainable against the third parties who were not aware about the fraudulent transactions. Hence, there is no bar to file Section 66 Application against any of the party which had the knowledge and intent to defraud the creditors.
- xvi.** Respondent No. 16 is attempting to get away from his liability under Section 66 of the Code by making wrong submissions that the Answering Respondent was not aware about the fraudulent acts. Hence, the bogus averment of being a non-executive director to get away from his liability deserves to be outrightly rejected by this Adjudicating Authority.
- xvii.** It is submitted that Independent / Non-executive Director can be held liable for any omission or commission by a company. It is submitted that as per Sub

Section 12 of Section 149 of the Companies Act, 2013, an independent director / a non-executive director not being promoter or key managerial personnel, shall be held liable, in respect of such acts of omission or commission by a company which had occurred with their knowledge, attributable through Board processes, and with his consent or connivance or where he had not acted diligently. It is pertinent to mention that as far as the issue with respect to the role of the independent directors in the acts done by the Corporate Debtor which are contrary to law. Reliance has been placed on the decision of the Hon'ble NCLAT in Shailesh Chawla v. Vinod Kumar Mahajan, Company Appeal (AT) (Ins) No. 571 of 2020.

- xviii.** While Section 66(2) primarily focuses on directors or partners who knew or should have known about the inability to avoid insolvency and failed to exercise due diligence, it doesn't differentiate between executive, independent, or shadow directors. Therefore, independent non-executive directors can also be held liable if the conditions of Section 66 of the Code are met.
- xix.** It is submitted that the Respondent No.16 was director in the Corporate Debtor during the period of 04.07.2016-21.08.2017 and the fraudulent transactions were done during the tenure of the Answering Respondent with his knowledge wherein he failed to perform any due diligence or acted in manner which is against the provisions of the Companies Act.

S.NO.	TRANSACTION WITH	AMOUNT (Rs.)	DATE
1.	Central Bombay Cable Network Limited	5,68,30,000/-	31.03.2018
2.	Gupta Trading Company	30,00,000/-	31.03.2017

- xx.** In the captioned Interlocutory Application, the date relating to the transaction with Central Bombay Cable Network Limited has been inadvertently mentioned as 31.03.2017, instead of the correct date, 31.03.2018.

- xxi.** Apart from this, the transaction as detailed in Transaction No. 4 of the Application included the fraudulent transaction for the period of Financial Year 2017-2018, during which the Answering Respondent was director of the Corporate Debtor.
- xxii.** It is submitted that in Paragraph No. 21 of the reply filed by the Respondent No. 17, it is admitted that an amount of Rs. 5,68,30,000.00/- was advanced by the Corporate Debtor to the Answering Respondent, a related party of the Corporate Debtor, and that the said amount was never recovered. The explanation provided by the Answering Respondent clearly reflects its knowledge of the transaction and fails to justify the non repayment, thereby supporting the Applicant's contention that the transaction was fraudulent in nature. The Respondent No. 17 has simply said that the amount which was invested by it for expanding the business was a bad investment due to various reasons like disparities in valuation expectations, a limited subscriber base, and more attractive offers available from competing service providers and hence was never paid back to the Corporate Debtor. The defence taken by the Answering Respondent is nothing but a mere attempt to avoid its liabilities. The amount advanced to the Answering Respondent was never meant to come back to the Corporate Debtor as the whole intention of the parties was to defraud its creditors by transferring the amount to the related party.
- xxiii.** The Authorize Representative of the Respondent No. 17 i.e., Mr. Brijesh Goyal, who has signed the Affidavit in the Reply is an employee of the Siti Network Limited, the parent company of both the Corporate Debtor and the Respondent No. 17 which shows that the persons acting on behalf of the Respondent had knowledge and involvement by having association with the parent company of both the Corporate Debtor and the Answering Respondent and are not third party of the Corporate Debtor.
- xxiv.** Further, upon taking note of the observations of the Forensic Auditor, it is evident that the management of the Corporate Debtor acted with questionable and non-bona fide intent in relation to the aforesaid related-party

transactions. It is submitted that: a) no agreement, contract or contemporaneous documentation has been placed on record explaining the nature of goods and services allegedly rendered; b) no basis or computation has been furnished to justify the quantum charged; and c) the transactions lack any arm's-length character. It is further submitted that a bare perusal of the financials reveals that while the annual turnover of the Corporate Debtor in FY 2018-19 was Rs. 29,65,90,000/-, an amount of Rs. 26,12,20,000/- was charged as management fees / services expense, which is grossly disproportionate and commercially untenable.

xxv. The Applicant has been able to trace only one purported agreement pertaining to a transaction of Rs. 8 Crores between the Corporate Debtor and Siti Networks Limited. The said agreement is invalid and unenforceable, having been signed by only one party.

xxvi. The Respondents have also relied upon a purported agreement dated 07.11.2024 in I.A. No. 511 of 2025 filed by them, wherein this Hon'ble Adjudicating was pleased to reserve orders. The CIRP in respect of the Holding Company was initiated on 22.02.2023. As per the provisions of the Code, once CIRP is initiated, only the Resolution Professional is authorized to execute any agreement on behalf of the Corporate Debtor or the Holding Company, subject to necessary approvals.

xxvii. In the present case, it is unclear who has signed the alleged agreement on behalf of the Holding Company, and notably, the agreement bears no signature of the Corporate Debtor. Further, the document post-dates the commencement of CIRP, raising serious questions regarding its validity and enforceability. The absence of due authorization, and with the backdated and unsigned nature of the agreement, clearly indicates that the said document is nothing but a fraudulent and fabricated attempt to mislead this Hon'ble Adjudicating Authority. Such conduct further reinforces the mala fide intentions of the Respondents and clearly falls under Section 66 of the Code.

xxviii. It is pertinent to note that upon review of the balance sheets of the Corporate Debtor for FY 2017-18 to FY 2023-24, the aforesaid sale transactions aggregating to Rs. 55,69,60,000/- were merely disclosed in the notes to accounts, without proper explanation or justification.

9. ANALYSIS AND FINDINGS:

- i.** We have heard the Ld. Counsel for the parties and have perused the material placed on record.
- ii.** The present Application has been filed by the Resolution Professional under Section 66 of the Code seeking contribution and appropriate directions against various Respondents on the ground that the affairs of the Corporate Debtor were carried on with intent to defraud creditors and for fraudulent purposes.
- iii.** The case of the Applicant is that the Corporate Debtor was under financial distress much prior to the initiation of CIRP and the Respondents, who were in control of the affairs of the Corporate Debtor at different points in time, failed to act in the best interest of the creditors. It is asserted that the Respondents engaged in fraudulent trading by allowing substantial advances to remain unrecovered, entering into unexplained inter-party adjustments, making disproportionate payments to the holding company, and failing to maintain proper documentation for transactions. The Applicant contends that such conduct reflects intent to defraud and misappropriate funds, and that even in the absence of a statutory look-back period, such transactions fall within the ambit of Section 66. It is further contended that liability under Section 66 extends to any person who knowingly participated in such conduct, including independent or non-executive directors where lack of due diligence is evident.
- iv.** The Respondents, on the other hand, contend that the present Application is merely a reproduction of the Transaction Audit Report without independent application of mind as required under Regulation 35A. It is submitted that the essential ingredients of Section 66, namely intent to defraud and knowing

participation, have not been established. The Respondents argue that many of the transactions were undertaken in the ordinary course of business and that mere non-recovery of dues or commercial failure cannot be equated with fraud. It is further contended that several Respondents were either not associated with the Corporate Debtor at the relevant time, or were nominee/non-executive directors without any role in day-to-day affairs, and hence cannot be held liable. The Respondents also raise the grievance that no prior opportunity was given to them to explain the transactions and that the conclusions of the audit report are based on absence of documents rather than positive evidence of fraud.

- v. At this juncture, reference is made to Section 66(1) of the Code which empowers the Adjudicating Authority to pass appropriate orders if any business of the Corporate Debtor has been carried on with intent to defraud creditors and Section 66(2) which addresses fraudulent or wrongful trading where Directors knew or ought to have known that the Corporate Debtor had no reasonable prospect of avoiding commencement of CIRP. Section 66 of the Code is reproduced herein below:

Section 66.

Fraudulent trading or wrongful trading.

(1) If during the corporate insolvency resolution process or a liquidation process, it is found that any business of the corporate debtor has been carried on with intent to defraud creditors of the corporate debtor or for any fraudulent purpose, the Adjudicating Authority may on the application of the resolution professional pass an order that any persons who were knowingly parties to the carrying on of the business in such manner shall be liable to make such contributions to the assets of the corporate debtor as it may deem fit.

(2) On an application made by a resolution professional during the corporate insolvency resolution process, the Adjudicating Authority may by an order direct that a director or partner of the corporate debtor, as

the case may be, shall be liable to make such contribution to the assets of the corporate debtor as it may deem fit, if-

(a) before the insolvency commencement date, such director or partner knew or ought to have known that there was no reasonable prospect of avoiding the commencement of a corporate insolvency resolution process in respect of such corporate debtor; and

(b) such director or partner did not exercise due diligence in minimising the potential loss to the creditors of the corporate debtor.

Explanation-For the purposes of this section a director or partner of the corporate debtor, as the case may be, shall be deemed to have exercised due diligence if such diligence was reasonably expected of a person carrying out the same functions as are carried out by such director or partner, as the case may be, in relation to the corporate debtor.

- vi.** The primary requirement under Section 66 is that the business of the Corporate Debtor must have been carried on with intent to defraud creditors or for a fraudulent purpose, and that the persons sought to be made liable were knowingly parties to such conduct.
- vii.** Thus, liability in the present matter must be transaction specific and person specific. Before delving into the transaction wise analysis, it would be apposite to first deal with certain preliminary issues which are as follows:

A. Whether liability under Section 66 can be fastened without establishing role, tenure and nature of directorship:

- a.** Respondents whose tenure does not coincide with the impugned transactions, or against whom no specific role has been attributed, cannot be held liable under Section 66. However, this protection cannot extend to those who were actively involved in decision-making during the relevant period and against whom circumstances indicate knowledge or participation.

B. Whether outstanding dues and commercial decisions can be treated as fraudulent transactions under Section 66:

- a. The next issue relates to whether the mere existence of outstanding advances, receivables, or commercial losses would fall within the ambit of Section 66. It is well settled that the threshold under Section 66 is significantly higher and requires clear evidence that the business of the Corporate Debtor was carried on with an intent to defraud creditors or for a fraudulent purpose. Reliance is placed on ***Renuka Devi Rangaswamy vs. Mr. Madhusudan Khemka [CA (AT) (CH) (Ins) No. 356 of 2022]***. The provision does not seek to penalise every act of commercial imprudence or business failure, but is attracted only where the conduct is tainted with dishonesty, deceit, or a conscious disregard for the interests of creditors.
- b. In this context, mere non-recovery of dues, howsoever large, cannot by itself lead to an inference of fraud. In the ordinary course of business, it is not uncommon for companies to extend advances, face delays in receivables, or even suffer bad debts due to market conditions, counterparty defaults, or failed commercial strategies. Similarly, unsuccessful investments or expansion decisions, even if they ultimately result in losses, do not automatically assume the character of fraudulent transactions unless it is shown that such decisions were taken without any commercial basis or were structured to deliberately siphon or divert funds.
- c. However, this does not mean that all such transactions are immune from scrutiny. Where the surrounding circumstances show that advances were made without any reasonable expectation of recovery, particularly to related or connected parties, or where receivables were deliberately allowed to remain uncollected despite the Corporate Debtor being in financial distress, or where losses are a consequence of

transactions lacking arm's length character, an adverse inference may be drawn.

- d. Thus, the distinction lies between bona fide commercial decisions that turn adverse, and transactions that are inherently lacking in commercial rationale and are demonstrably prejudicial to the interests of creditors. Only the latter would warrant invocation of Section 66.

C. Whether the Resolution Professional complied with Regulation 35A and sought explanations from Respondents:

- a. It is the case of the Respondents that no opportunity was given to them to explain the transactions and that the Application is merely based on the audit report. While Regulation 35A requires formation of opinion and determination by the Resolution Professional, it does not mandate a quasi-judicial hearing prior to filing the Application.
- b. The record indicates that the conclusions in the Transaction Audit Report are based on absence of documentation or lack of response. Such absence, by itself, cannot be equated with proof of fraud. The Resolution Professional is required to independently assess the material and place sufficient evidence before the Adjudicating Authority. Our attention is also drawn to the material placed on record by the Respondents, particularly Response Letter sent by the Respondent to the Transaction Auditor, which shows that before finalizing the Transaction Audit Report, the draft copy of said report was not shared with the Directors of CD and no opportunity was given to the Directors of CD to clarify the observations recorded in said report. Thus, the comments in the Transaction Audit report implying that the management did not share relevant details and classifying the transactions under section 66 in absence of the details run contrary to the material placed before us.
- c. Thus, while the Application cannot be rejected solely on this procedural ground, the evidentiary value of such findings must be tested cautiously

by this Adjudicating Authority by taking into account surrounding circumstances that could corroborate the such findings and adverse conclusions cannot be drawn merely due to non-availability of documents.

viii. Transaction 1: Outstanding Balance of Advance given to suppliers as on 31.10.2023 amounting to Rs. 6,53,54,848/-

A. Advance to CBCNL:

- a.** The allegation pertains to an advance extended to CBCNL which remained unrecovered. While the Applicant has questioned the commercial prudence of the transaction and the lack of recovery, the Respondents have explained that the advance formed part of a business expansion strategy and failed due to market conditions.
- b.** This Tribunal finds that apart from the fact of non-recovery, no cogent material has been placed on record to demonstrate that the transaction was entered into with fraudulent intent. There is no evidence showing diversion of funds for personal gain, sham nature of the transaction, or collusive arrangement. The absence of recovery, by itself, cannot elevate a commercial decision into a fraudulent act.

B. Failure to recover the debt amount despite of the fact that the Corporate Debtor was in a state of Financial Distress:

- a.** The Applicant has alleged that advances to vendors during financial distress were fraudulent. However, the Respondents have demonstrated that such payments were made for operational purposes, including licensing and service procurement, and that some balances were adjusted or remained subject to ongoing negotiations.
- b.** This Tribunal notes that vendor advances are a routine feature of commercial operations. No material has been placed to show that these vendors were fictitious, related entities used for diversion, or that services were never intended to be procured. In the absence of such evidence, the allegation remains speculative.

c. Accordingly, **Transaction 1 is not covered under Section 66.**

ix. Transaction 2 : Outstanding Customer Balances:

a. The allegation relates to non-recovery of receivables from customers. The Respondents have explained that these were numerous small-value balances and that recovery proceedings would have been commercially imprudent.

b. This Tribunal finds merit in the said explanation. Non-recovery of trade receivables is an ordinary business risk and cannot, in the absence of evidence proving otherwise of collusion cannot be treated as fraudulent trading.

c. Accordingly, **Transaction 2 is not covered under Section 66.**

x. Transaction 3A and 3B: Inter-Party Adjustments and Inter-Customer Voucher Adjustment

a. The Applicant has questioned certain inter-party as well as inter-customer adjustments being irregular. The Respondents have explained that these were either accounting entries reflecting settlements or inadvertent errors subsequently rectified.

b. There are Service Provider Agreements on record which point that the creditors and the transactions were genuine and not fictitious. This Tribunal finds that there is no material demonstrating fund diversion or wrongful gain. The entries appear to be reconcilable accounting adjustments without impact on the financial position of the Corporate Debtor.

xi. Transaction 4: Sale of goods and services for an amount of Rs. 55,69,60,000:

a. The Applicant alleges that payments made by the Corporate Debtor to its parent company, SITI Networks Limited (SNL), under the head of management fees were disproportionate, unsupported by agreements, and amounted to diversion of funds.

- b.** The Respondents have explained that the Corporate Debtor, being a wholly-owned subsidiary, was initially dependent on SNL for infrastructure and operations following the transfer of broadband business in 2015. SNL incurred substantial capital and operational expenditure (approx. ₹124.42 crores) on behalf of the Corporate Debtor, which was subsequently recovered through phased invoicing. It is submitted that these payments represent legitimate cost reimbursements, duly recorded in the books and supported by invoices, and not fraudulent transactions.
- c.** Upon consideration, this Adjudicating Authority finds that the parent-subsidiary relationship and the operational dependence of the Corporate Debtor provide a plausible commercial basis for such payments. The Applicant has failed to establish that the expenditure claimed was fictitious, inflated, or intended for siphoning of funds. Accordingly, **Transaction 4 does not meet the threshold under Section 66 of the Code.**

xii. Transaction 5: Undervalued transaction with Dish TV India Ltd (related party):

- a.** The Applicant alleges that the outstanding receivable from Dish TV constitutes a fraudulent transaction on the basis that it is a related party and that non-recovery reflects diversion of funds.
- b.** The Respondents have disputed the related-party status, submitting that post the 2008 Essel Group separation, Dish TV and the Corporate Debtor operate under distinct promoter groups with no common control. They further contend that the non-payment arose due to unresolved technical issues affecting service utilisation, and not due to any fraudulent intent.
- c.** Upon consideration, this Adjudicating Authority finds that the Applicant has failed to establish that Dish TV is a related party. The material on record indicates a clear separation in ownership and

control. Further, the non-recovery of dues, which had to be written off, is supported by a plausible commercial explanation, and there is no evidence of collusion or siphoning of funds.

- d. Accordingly, in the absence of proof of fraudulent intent or knowing participation, **Transaction 5 does not fall within the ambit of Section 66 of the Code.**

- xiii.** This Adjudicating Authority is cognizant of the fact that Section 66 of the Code requires a clear finding that the business of the Corporate Debtor was carried on with intent to defraud creditors or for any fraudulent purpose, and that the persons sought to be made liable were knowingly parties to such conduct. This is a stringent threshold and cannot be met by mere suspicion, conjecture, or inference based solely on adverse financial outcomes.
- xiv.** Further, Regulation 35A mandates the Resolution Professional to form an opinion, followed by determination, and thereafter filing of an application. In the present case, a perusal of the Application indicates that it substantially reproduces the findings of the Transaction Audit Report, without demonstrating any independent analysis or correlation of facts to the legal ingredients of Section 66. This procedural lapse assumes significance, particularly when serious civil consequences are sought to be imposed.
- xv.** The issue of tenure and role attribution also assumes greater significance in the present case. Liability under Section 66 cannot be imposed in a blanket manner. The Application fails to clearly delineate the role of each Respondent in each transaction, and in several instances, Respondents have been impleaded despite their tenure not coinciding with the impugned transactions.
- xvi.** The judgments relied upon by the Applicant do not advance its case, as the foundational requirements of Section 66 of the Code have not been established in the present matter.
- xvii.** In view of the foregoing discussion, this Adjudicating Authority is of the considered opinion that the Applicant has failed to discharge the burden of

proving that the impugned transactions were undertaken with intent to defraud creditors or for a fraudulent purpose, or that the Respondents were knowingly parties to such conduct. The Application is largely premised on presumptions arising from non-recovery of dues, accounting entries, and perceived irregularities, without establishing the essential ingredients of Section 66. The absence of specific role attribution, the mismatch of tenure, and the lack of independent application of mind by the Resolution Professional further weaken the case.

xviii. Accordingly, the present Application bearing **I.A. 397 ND 2025** under Section 66 of the Code is **dismissed**.

No order as to costs.

-SD/-

ATUL CHATURVEDI
MEMBER (TECHNICAL)

-SD/-

MANNI SANKARIAH SHANMUGA SUNDARAM
MEMBER (JUDICIAL)