**NATIONAL COMPANY LAW TRIBUNAL**
**DIVISION BENCH, COURT – II**
**CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 05.06.2026 AT 10.30 A.M. THROUGH VIDEO CONFERENCING:**

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**PRESENT: SHRI. JYOTI KUMAR TRIPATHI, HON'BLE MEMBER (JUDICIAL)**
**SHRI. RAVICHANDRAN RAMASAMY, HON'BLE MEMBER (TECHNICAL)**

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| **APPLICATION NUMBER** | **: IA/1298/IB/2020** |
| **PETITION NUMBER** | **: CP/1021/IB/2018** |
| **NAME OF THE APPLICANT** | **: Rajalakshmi Vardarajan (RP) M/s Supreme Coated Board Mills Pvt Ltd** |
| **NAME OF THE RESPONDENT(S)** | **: Mariappan Thangeswari & Others** |
| **UNDER SECTION** | **: Sec 60(5) of IBC, 2016** |

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## ORDER

Vide separate order pronounced in open court, **IA/1298/IB/2020** is Partly Allowed.

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| **-SD-** | **-SD-** |
| **RAVICHANDRAN RAMASAMY** | **JYOTI KUMAR TRIPATHI** |
| **Member (Technical)** | **Member (Judicial)** |

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# IN THE NATIONAL COMPANY LAW TRIBUNAL,

# DIVISION BENCH – II, CHENNAI

## IA (IBC) / 1298 / 2020

**In**

## CP / 1021 / IB / 2018

*(Filed under Section 66 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)*

*In the matter of M/s Supreme Coated Board Mills Private Limited*

**Ms. Rajalakshmi Vardarajan,**
Resolution Professional for M/S Supreme Coated Board Mills Private Limited,
351/18, Aishwarya Flats,
36th Street, I Block, Anna Nagar,
Chennai – 600 040

***… Applicant/Resolution Professional***

***-Vs-***

**Mariappan Thangeswari,**
Door 159, AVT Puthur Street,
Sivakasi, Virudhunagar,
Behind Sakkammal Koil, Sivakasi.
Chennai – 626 123.

***… Respondent-1/Suspended Director***

**Kannan Kaliappa Nadar,**
Door 159, AVT Puthur Street,
Sivakasi, Virudhunagar,
Behind Sakkammal Koil, Sivakasi.
Chennai – 626 123.

***… Respondent-2/Suspended Director***

**Sakthinath Mariappan,**
Door 159, AVT Puthur Street,
Sivakasi, Virudhunagar,
Behind Sakkammal Koil, Sivakasi.

Chennai – 626 123.

*... Respondent-3/Suspended Director*

**Mariappan Sakthiraj,**
Door 159, AVT Puthur Street,
Sivakasi, Virudhunagar,
Behind Sakkammal Koil, Sivakasi.
Chennai – 626 123.

*... Respondent-4/Suspended Director*

**Kumaresan Kaliappa Nadar,**
Door 159, AVT Puthur Street,
Sivakasi, Virudhunagar,
Behind Sakkammal Koil, Sivakasi.
Chennai – 626 123.

*... Respondent-5/Suspended Director*

**Supreme Polypacks Private Limted ,**
11, Pukkan Street,
Taluk Kamaraja, Sivakasi,
Chennai – 626 123.

*... Respondent-6/Sister Concern*

*Order Pronounced on **05th June 2026***

**CORAM**

**SHRI JYOTI KUMAR TRIPATI, MEMBER (JUDICIAL)**
**SHRI RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)**

***For Petitioners**:- Gokul Sundar. K. R, Advocates*
***For Respondent:-** Amarnath, Advocate*

## O R D E R

***(Heard Through Hybrid Mode)***

1. This application has been filed by liquidator of Sugar Coated Board Mills Private Limited under Section 66 of Insolvency and Bankruptcy Code 2016 (*hereinafter referred to as Code*), seeking the following reliefs:

*"a) Declare that the above transfers and transactions constitute fraudulent transactions under Section 66 of the IBC;*

*b) Consider and allow this Application in terms of section 66 read with Section 26 of IBC, 2016 and direct the Respondents-6 to return the siphoned sum and also be directed to revert back an equal amount of benefits received by them from the Corporate Debtor.*

*c) Require the Directors (Respondent No. 1 to 5) and the persons other than the Directors as shown in the annexures and Bank Statements as detailed in this above, to pay such sums as stated above in respect of benefits received by them from the Corporate Debtor as the Hon'ble Tribunal may direct;*

*d) Pass appropriate directions/orders in terms of under the relevant provisions of the Code including for recovery/restoration of legitimate amounts due to the Corporate Debtor."*

**2. APPLICANTS SUBMISSIONS:**

2.1 It is submitted that the Applicant was appointed as the Resolution Professional of the Corporate Debtor in the CoC meeting held on 28.10.2019.

2.2 It is submitted that the Committee of Creditors of M/s Supreme Coated Board Mills Private Limited had approved to carry out a Forensic Audit and Avoidance Transactions Review of the Company. It is further submitted that accordingly, SPR & Co has been appointed to conduct Forensic audit for the look back period as per the provisions of IBC.

2.3 It is stated that the applicant, upon the findings of Auditor, noted the total fraudulent transactions for a sum of Rs. 30.92 lakhs.

2.3 It is submitted that a payment of Rs 244.28 Lakhs was made towards Respondent 6, Supreme Polypacks Private Limited. However, the backup details provided by the management for the year 2017-18 shows that the payment of only Rs. 76 Lakhs is made towards the Sister Concern and the balance amount of Rs.168.28 Lakhs was made to 5 different parties, which can be considered as diversion of funds.

2.4 It is submitted that the payment of Rs. 193.23 lakhs in 2019 was made to meet the repayment of Unsecured Loans without supporting document for justifying the transactions. It is also submitted that the applicant had made query regarding the same to the management, but no response was given. Further, it was stated that the deceased Director made oral reply stating that these were loans taken from parties not related to business for business operations.

2.5 It is submitted that an amount of Rs. 375.07 lakhs was shown as payment to Creditors in the ledger for the year of 2018-19. It is further stated that the no details of the creditors were given. Also, an amount of Rs. 126.05 lakhs was shown as payment made as advance for suppliers. It is further submitted that these amounts were subsequently transferred to factory building account without any supporting documents.

2.6 It is submitted that a cash payment of Rs. 15.20 lakhs and a debit of suspense account to an extent of Rs. 9.50 lakhs directly transferred into Factory building account, without any supporting documents. Also, during FY 2017-18, an amount of Rs. 141.69 lakhs was made to Unit II Building Asset account.

2.7 It is also submitted that an amount of Rs. 2.47 have been transferred from the cash accounts to suspense accounts.

2.8 It is submitted that Raw materials have been considered as Trial Run Expenditure and capitalized to the extent of Rs. 17.40 crores.

**3. RESPONDENTS SUBMISSIONS:**

3.1 The respondent no. 1 in his Written Representation denied all the allegations and submitted that that the alleged amount of Rs. 244.28 lakhs was infact a payment made to the raw materials supplied by 4 sister concerns, namely, M/s Jeyasri Traders, M/s Manoharan trading Company, M/s Raj Impex, M/s Selvi Trade. It is further submitted that said trading has been going on since 2016.

3.2 It is submitted that sum of Rs. 193.23 lakhs shown as debit balance of unsecured loans is the payments and receipts relating to unsecured creditors in the normal course of business, which was used for the development of mill.

It is also stated that the said amount was utilized for building Unit II and developing it.

3.3 It is submitted that the debit balance of creditor's ledgers to the extent of Rs. 375.07 lakhs and a debit balance of advance amount to the extent of Rs. 126.05 lakhs allegedly transferred to Factory Building account were the amounts given as advance to the creditors and building contracts, the details of which were in factory premises.

3.4 It is submitted that that transactions of worth Rs.24.07 lakhs made as cash payment among the same 15.20 lakhs is shown as cash payment and 9.50 lakhs is shown as debit of suspense account directly capitalized into factory building account. It is also alleged that during FY 2017-18 cash payments have been made and directly debited to Unit II building asset account without any support to an extent of Rs. 141.69 lakhs. It is stated that these were payments made to meet the last phase of minute works in Unit II.

3.5 It is submitted that Rs. 247 lakhs transferred from Cash accounts to Suspense account in FY 2017-18, which was stated that these were cash payments made on urgent basis.

3.6 It is submitted that raw materials have been considered as Trial Run Expenditure and capitalized to the extent of Rs.17.40 crores, as given by RP was for the purchase raw materials for Unit II and also includes expenditure involving civil work. It is further submitted the raw materials unfit to be used were placed in the yard of Unit II and further stated that the RP can assess the value.

**4. MEMOS FILED BY THE PETITIONER:**

4.1 It is mentioned in the Written Submissions dated 01.03.2026 that the tribunal vide daily order dated 11.11.2024 has directed the RP to seek bank statement of these parties from City Union Bank for scrutiny and report. It is submitted that upon the receipt of the information, the following has been found - All these parties are related to Promoter Directors and is not a third party suppliers. All the accounts of four party at 1 to 4 have been opened with City Union Bank for Cash Credit Limit on 18th July 2016. Ongoing through the transactions, it was found that the account has been utilized for receipt of payments from the CD and thereafter money has been withdrawn with Self Cheques. All these accounts have been declared as NPA on 30th September 2019, the date on which the CD was admitted for Corporate Insolvency Resolution Process.

4.2 The tribunal vide daily order dated 07.01.2025 has directed the RP to seek statement of accounts from respective bankers. It is found that the payment have been made by CDs on various dates to these accounts was found to be reverted to directors and their relatives account through fund transfer. CD has transferred the account of the above parties (Sl No. 1 to 6) and retransferred the same to the Directors/Related Parties account on different dates. The amount of transfer from/to the recipient account do not match as some of the funds have also been withdrawn in cash or paid through other party accounts in the books. However, ongoing through the bank statement of the Recipients, the following payments have been made to Promoter Directors/Related parties.

4.3 A party account in the name of "Vigneshwara Steel Mart" was verified and found that an amount of Rs. 10 lakhs shown as paid on 25th M ay 2017 was actually paid to one Mr. Selvaraj which is covered in Transaction 2.

4.4 The Cash payments more than Rs. 20000/- is prohibited under Section 269SS of Income Tax Act, 1961 and is disallowed as a business expense (revenue or capital). However, CD has capitalized the assets just by debiting the cash account without any proof of asset addition in the form of material, labour etc., is clearly treated as fund diversion in a prudent accounting norms.

4.5 In the books of the CD during the last date of the FY 18 i.e (31.3.2018), material worth Rs. 17.41 crores comprising of Rs. 9.67 crores of waste paper, 3.15 crores of Coal, 3.97 crores of chemicals and 60 lacs of packing materials were debited to Trial Run Expenditure. However, on enquiry, it was found that the CD had imported waste paper in the Financial Year 2019 which were cleared by AV Thomas and during such period CD has sold the waste paper for an amount of Rs. 108 crores for adjusting the payment for their services. However, CD has not booked such invoice in the books of accounts. (*It is stated* *that this matter has been filed under section 43 as preferential payment in IA/1299/2020*)

4.6 This expense is considered as fund diversion with the given fact that the CD has raised an invoice to an extent of Rs. 1.03 crores for sale of Mixed Waste in favour of AV Thomas, who was a clearing agent for the imports to adjust his balance dues. However, such invoice was not accounted in the books of CD and the Applicant was able to get the copy of the invoice from AV Thomas directly. In such scenario, the intention of the CD is questionable and that leads to a larger question on the whole amount of Rs. 17.40 crores of raw material that have been capitalized as Trial Run Expenditure.

**FINDINGS OF THE TRIBUNAL:**

5. We have heard and perused the submissions of Petitioner and Respondent.

6. This is a case where the applicant / RP sought the following transactions as fraudulent under Section 66 of IBC, 2016. After going through the report submitted by Respondent and going through the report of Forensic Auditor, we hold as under:

**<u>Transaction 1:</u>**

7. This is the transaction wherein certain payments had been made to 5 parties totaling Rs. 242.28 lakhs on various dates for the period of FY 2017-2018. The contention of the RP is that these payments have been transferred to Sister Concerns for no plausible reason and the entries have been made in the Books of Accounts with the intention to hide the fund diversion to sister concern. Therefore, RP concluded the same as diversion of funds and sought the same as recoverable from R6, namely sister concern.

8. It is the idea of Respondents that the payments were made towards procurement of raw materials through four sister concerns, namely M/s Jeyasri Traders, M/s Manoharan Trading Company, M/s Raj Impex, and M/s Selvi Trade, the scrutiny of bank statements obtained pursuant to the Tribunal's order dated 11.11.2024 reveals that all the said entities are related parties connected with the promoter directors and are not independent third-party suppliers.

9. It is further observed that all four entities opened accounts with City Union Bank on the same date, i.e., 18.07.2016, for obtaining Cash Credit facilities, indicating a coordinated arrangement. Examination of the transactions shows that substantial amounts received from the Corporate Debtor were immediately withdrawn through self-cheques, without sufficient supporting evidence of genuine supply of raw materials or actual business operations.

10. The pattern of transactions, coupled with the absence of independent supplier credentials and the subsequent declaration of all accounts as NPA on 30.09.2019, establishes that the entities were utilized as conduit accounts for routing and siphoning funds of the Corporate Debtor.

11. As per provisions of Section 66 of IBC, which is extracted as follows:

*"Section 66: 1[Fraudulent or wrongful trading.]*

**66. (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 2[or the liquidator,] 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 2[or by a liquidator], 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 the 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.*

*3[(3) Notwithstanding anything contained in this section, no application shall be filed by a resolution professional under sub- section (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A.]*

*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."*

12. In this matter it is apparent that payment were used to make payments to four related entities only to defraud the creditors. The word fraudulent describes any act, statement, or omission involving intentional deceit and dishonestly designated to gain an unfair advantage or cause financial harm to another. It occurs when someone knowingly misleads or hides the truth.

13. Accordingly, the payments aggregating to Rs. 168.28 Lakhs cannot be treated as genuine trade transactions and are liable to be considered as diversion/siphoning of funds to related parties for the benefit of the promoter group. Therefore, we conclude the same as fraudulent for Section 66. Same is recoverable from R1-R5.

14. With regard to the above transaction, the amounts so siphoned off should be brought back to the accounts of the Corporate Debtor within 4 weeks from the date of this Order.

**Transaction 2:**

15. The explanation furnished by the Respondents with respect to the amount of Rs. 193.23 Lakhs is not supported by any documentary evidence. Though it is contended that the transactions pertain to unsecured creditors and that the funds were utilized in the normal course of business for development of Unit II of the mill, no loan agreements, confirmations, supporting invoices, construction records, or other contemporaneous records have been produced to substantiate the claim by the respondent.

16. It is further observed that despite specific queries raised by the Applicant, the management failed to provide satisfactory replies or supporting documents. The explanation allegedly provided orally by the deceased Director also remains uncorroborated.

17. Pursuant to the Tribunal's order dated 07.01.2025, scrutiny of the bank statements obtained from the respective bankers reveals that amounts transferred by the Corporate Debtor to the accounts of the parties mentioned were subsequently routed back, wholly or partly, to the accounts of the promoter directors and their relatives through fund transfers on various dates. Examination of the transaction trail further shows that certain amounts were withdrawn in cash or layered through other intermediary accounts, thereby obscuring the true nature and destination of the funds.

18. The circular movement of funds from the Corporate Debtor to the recipient entities and thereafter to the promoter directors/related parties demonstrates that the transactions lacked genuine commercial substance. The mismatch in the amounts transferred and retransferred, coupled with cash withdrawals and routing through multiple accounts, indicates an attempt to divert of funds which also comes in purview of fraudulent activities.

19. In the absence of credible evidence proving utilization of the amounts for business purposes or development of Unit II, and considering the established fund trail benefiting the promoter directors and related parties, the transactions are liable to be treated as diversion and siphoning of funds of the Corporate Debtor for the benefit of related parties. Therefore, we conclude the same as fraudulent for Section 66. Same is recoverable from R1-R5.

20. With regard to the above transaction, the amounts so siphoned off should be brought back to the accounts of the Corporate Debtor within 4 weeks from the date of this Order.

**<u>Transaction 3:</u>**

21. The allegation of fund diversion is based on suspicion arising from an unaccounted invoice allegedly issued to AV Thomas. Even if such transaction is assumed to be irregular, the same cannot lead to a presumption that the

entire capitalization of ₹17.40 crore towards Trial Run Expenditure was fictitious or diverted. The Applicant has failed to produce any stock reconciliation, physical verification report, forensic audit finding, or documentary evidence demonstrating that the raw materials were neither consumed during trial runs nor available with the Corporate Debtor. The burden of proving diversion lies upon the Applicant and cannot be discharged by drawing inferences from isolated accounting discrepancies. In the absence of cogent evidence establishing a direct nexus between the alleged invoice and the entire capitalized expenditure, the allegation deserves to be rejected as speculative and unsupported by record.

22. Mere absence of supporting documentation for a transaction does not automatically make it fraudulent under Sec 66 of IBC. For a transaction to be considered fraudulent, there must be established proof of intent to defraud the creditors, not just poor record keeping or lack of justification. Further, Forensic audit report pointing out lack of documentation is not enough to prove fraudulent intent which may at best be insufficient material. The burden of proof is on the RP to prove the intent to defraud not just omission in paperwork. Therefore, we do not find that the above transaction fulfils essential ingredients for the purpose of Section 66 of IBC, 2016. Therefore, the same is dismissed.

**Transaction 4:**

23. Hereby, it is seen that a cash payment of Rs. 15.20 lakhs and a debit of suspense account to an extent of Rs. 9.50 lakhs directly transferred into Factory building account, without any supporting documents. Also, during 2017-18, an amount of Rs. 141.69 lakhs was made to Unit II Building Asset account, which the RP had sought to be fraudulent.

24. RP has not brought to the notice whether these cash payments are unexplained or undocumented withdrawals and transfers are made to defraud the creditors, conceal assets as well as are not in the ordinary course of business. We find that the cash payments are been duly debited into Unit II Building and have been capitalized which has been explained by the Respondent CD in the Written Representations that those payments are made for minute works in Unit II and the transactions are genuine as per the documents which are still available in the factory, the RP had not provided any supporting documents as per the vouchers or journal entries and only relied on the ledger accounts which mentioned the payments as cash without understanding the major of transactions or the business expediency of the CD to carry out such transactions for the purpose of construction of Unit II Building.

25. Mere reference that no explanation or supporting details not provided would not qualify the transaction to be treated as fraudulent or wrongful.

Therefore, we do not find that the above transaction fulfils essential ingredients for the purpose of Section 66 of IBC, 2016. Therefore, the same is dismissed.

**Transaction 5:**

26. We find that the cash transaction has been made as under:

The above transactions were not explained in any manner even in the accounts as the same has been shown to be rooted through suspense account on which no explanation has been offered either in the Books of account or by the CD. We also find that the response of R1 Company also is vague and the reasoning given is that cash payments were made to factory management on urgent basis in suspense account. The above explanation is not acceptable as huge amounts in the form of cash payments without clear business justification has to be construed as red flag in accounting and the same would qualify to be fraudulent as directors or promoters or any person knowingly involved in such a transaction. In the absence of proper explanation, the transactions cannot be considered to be carried out during normal course of business. Therefore, we are of the view that Rs. 2.47 crores to be returned by the promotors due to the suspicious cash payments and diversion of funds. As the same appeared to be not supported by legitimate business purposes, invoices, proper accounting entries. The nature of classifying such transaction in account also proves fraudulent intent and demonstrate a glaring pattern or increase in unexplained cash and burden of proving the same as not genuine has been adequetly discharged by the CD in his reply. Therefore, we conclude the same as fraudulent for Section 66. Same is recoverable from R1-R5. With regard to the above transaction, the amounts so siphoned off should be brought back to the accounts of the Corporate Debtor within 4 weeks from the date of this Order.

**Transaction 6:**

27. The Applicant has pointed out certain accounting irregularities and the absence of complete supporting documents. However, apart from one transaction of ₹10 lakh allegedly paid to Mr. Selvaraj, no material has been produced to demonstrate that the entire sum of ₹501.12 lakh transferred to Factory Building Account was fictitious, misappropriated, or diverted. The existence of debit balances in supplier and creditor accounts, followed by capitalization into Factory Building Account, is not by itself sufficient to establish avoidance transactions or siphoning of funds. The Applicant has failed to establish a direct nexus between the alleged irregular transaction and the entire capitalized expenditure. Accordingly, no adverse finding can be rendered solely on the basis of suspicion or incomplete records. Therefore, we

do not find that the above transaction fulfils essential ingredients for the purpose of Section 66 of IBC, 2016. Therefore, the same is dismissed.

28. Accordingly, the Interlocutory Application, IA (IBC) / 1298 / 2020 In CP / 1021 / IB / 2018 stands Partly Admitted.

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|---|---|
| **RAVICHANDRAN RAMASAMY** | **JYOTI KUMAR TRIPATHI** |
| MEMBER (TECHNICAL) | MEMBER (JUDICIAL) |