

**THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-I**

**IA 772 of 2025**

Section 43 and 66 of the IBC, 2016 r/w Section 60(5)  
of the IBC 2016 and Rule 11 of NCLT Rules 2016

**NPV Insolvency Professionals Private Limited**

(Through its Authorized Representative Mr. Ritesh Prakash  
Adatiya)

**...Applicant**

V/s

**Mr. Vipinkumar K. Chaturvedi & Ors.**

(Suspended Director of the Corporate Debtor)

**...Respondent**

In the matter of

**COMPANY PETITION NO. 4372/MB/2019**

**E-COMPLEX PRIVATE LIMITED CREDITOR**

**...Petitioner**

V/s

**DOJAHAN TRADINF PRIVATE LIMITED  
DEBTOR**

**...Respondent**

***Order delivered on: 18.06.2026***

***Coram:***

**Shri Prabhat Kumar**

Hon'ble Member (Technical)

**Shri Sushil Mahadeorao Kochey**

Hon'ble Member (Judicial)

*Appearances:*

For the Applicant : Ms. Prashansa Agrawal,  
For the Respondent No.1 & 2 : Adv. Narendra Singh a/w Adv.  
Tanushree Sogani and Adv. Atishay Jain  
For the Respondent No.3 & 7 : Adv. Anand Shaw i/b Adv. Aniruth  
Purusothaman

**ORDER**

1. This Application IA 772/2025 was filed by NPV-Insolvency Professionals Private Limited through its Authorized Representative Mr. Ritesh Prakash Adatiya (“Applicant/RP”), the Resolution Professional of Dojahan Trading Private Limited (“Corporate Debtor”), under Section 43 and 66 of the Insolvency and Bankruptcy Code, 2016 read with Section 60(5) of the IBC 2016 and Rule 11 of National Company Law Tribunal Rules 2016, seeking following reliefs:-

- A. *Declare the transactions against Global Trading amounting to Rs. 10,08,095/- lakhs as preferential transaction as envisaged u/s 43 of the code and direct the Respondents to jointly and severally remit an amount of Rs. 10.53 lakhs into the account of the Corporate Debtor towards the interest.*
- B. *Declare the transactions against Manlife Trading Pvt. Ltd. amounting to Rs. 1,27,586/- lakhs as preferential transaction as envisaged u/s 43 of the code and direct the Respondents to jointly and severally, remit an amount of Rs. 1369/-lakhs into the account of the Corporate Debtor.*
- C. *Declare the transactions against Kalmil Overseas Pvt Ltd. amounting to Rs. 3,840.57 (in lakhs) as preferential transaction as envisaged u/s 43 of the code and direct the Respondents to jointly and severally, remit an*

*amount of Rs. 3,840.57 (in lakhs) into the account of the Corporate Debtor.*

- D. Declare the transactions against Metalico Trading Pvt Ltd (DRS) amounting to Rs. 3,678.62 (in lakhs) as preferential transaction as envisaged u/s 43 of the code and direct the Respondents to jointly and severally, remit an amount of Rs. 3,678.62 (in lakhs) into the account of the Corporate Debtor.*
- E. Declare the transactions against Metaferro Trading Pvt. Ltd. amounting to Rs. 2,941.21 (in lakhs) as preferential transaction as envisaged u/s 43 of the code and direct the Respondents to jointly and severally, remit an amount of Rs. 2,941.21 (in lakhs) into the account of the Corporate Debtor.*
- F. Declare the transactions against Surya Pratap Trading amounting to Rs. 15 lakhs as fraudulent transaction as envisaged u/s 66 of the code and direct the Respondents to jointly and severally, remit an amount of Rs. 15 lakhs into the account of the Corporate Debtor.*
- G. Declare the transactions against E complex steel (Proprietorship firm) amounting to Rs. 602.83 lakhs as fraudulent transaction as envisaged u/s 66 of the code and direct the Respondents to jointly and severally, remit an amount of Rs. 602.83 lakhs into the account of the Corporate Debtor.*
- H. Declare the transactions against Kalyan Multi Trade amounting to Rs. 93.73 lakhs as fraudulent transaction as envisaged u/s 66 of the code and direct the Respondents to jointly and severally, remit an amount of Rs. 93.73 lakhs into the account of the Corporate Debtor.*
- I. Declare the transactions against Ashoka Trading amounting to Rs. 3.00 lakhs as fraudulent transaction as envisaged u/s 66 of the code and direct the Respondents to jointly and severally, remit an amount of Rs. 3.00 lakhs into the account of the Corporate Debtor.*

- J. Declare the transactions against Kiran Fatehchand Jain to Shreepati Investment RRC amounting to Rs. 300 Lakhs as fraudulent transaction as envisaged u/s 66 of the code and direct the Respondents to jointly and severally, remit an amount of Rs. 300 Lakhs into the account of the Corporate Debtor.*
- K. Declare the transactions against Sanghvi Realty Pvt Ltd amounting to Rs. 6.02 Lakhs as fraudulent transaction as envisaged u/s 66 of the code and direct the Respondents to jointly and severally, remit an amount of Rs. 6.02 Lakhs into the account of the Corporate Debtor.*
- L. Declare the transactions against Sanghvi Realty Pvt Ltd amounting to Rs. 6.02 Lakhs as fraudulent transaction as envisaged u/s 66 of the code and direct the Respondents to jointly and severally, remit an amount of Rs. 6.02 Lakhs into the account of the Corporate Debtor.*
- M. Declare the transactions against Chintamani Enterprises amounting to Rs. 69.65 lakhs as fraudulent transaction as envisaged u/s 66 of the code and direct the Respondents to jointly and severally, remit an amount of Rs. 69.65 lakhs into the account of the Corporate Debtor.*
- N. Declare the transactions against Kalyan Multi Trade amounting to Rs. 76.26 lakhs as fraudulent transaction as envisaged u/s 66 of the code and direct the Respondents to jointly and severally, remit an amount of Rs. 76.26 lakhs into the account of the Corporate Debtor.*
- O. To condone the delay of 172 days in filing this present Application in the circumstances as mentioned hereinabove.*
- P. Pass such other order / directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case.*
2. The Applicant is seeking avoidance of " Preferential Transactions" carried out with Respondent No. 3 to 7, namely Kalmil Overseas Pvt. Ltd. (R-3), Metalico Trading Pvt. Ltd. (R-4), Metaferro Trading Pvt. Ltd. (R-5), Manlife Trading Pvt. Ltd. (R-6), and Global Trading (R-7) respectively, and an order for

contribution from Respondent No. 1, namely Mr. Vipinkumar K. Chaturvedi (R-1), and Mr. Gajendra Nath Chaturvedi (R-2) in relation to Transactions carried out with other parties, under taken in 01<sup>st</sup> April 2016 to 23<sup>rd</sup> April 2024, viz. eight years prior to commencement of the Corporate Insolvency Resolution Process ("CIRP") on 23.04.2024 in the matter of the Corporate Debtor.

3. An application for Corporate Insolvency Resolution Process was filed by M/s. E-Complex Private Limited, Operational Creditor, under Section 9 of the Insolvency and Bankruptcy Code 2016 (hereinafter referred to as "IBC"), which was admitted by the Hon'ble NCLT, Mumbai Bench VI vide order dated 23.04.2024 appointing Mr. Manoj Kumar Babulal Agarwal as the Interim Resolution Professional of the Corporate Debtor. Thereafter, CoC comprising two operational creditors, was constituted pursuant to verification of claims received in terms of Public Announcement made on 28.05.2024 and 02.06.2024 in one Regional and one English Language namely Navarashtra and Financial Express. The Committee of Creditors in its First CoC meeting held on 22.06.2024 passed the resolution to replace the IRP appointing the Applicant herein as a Resolution Professional, which was confirmed by this Tribunal vide order dated 19.07.2024.
4. In the Third Meeting of the Committee of Creditors (hereinafter referred to as the "CoC") of the Corporate Debtor held on 22.08.2024, the members of CoC, vide requisite majority of 86% voting shares, granted their approval for appointment of "Shah & Gandhi, Chartered Accountants" as the Transaction Auditor on 28.08.2024, and the said Transaction Auditor submitted their Transaction Audit to the Applicant herein on 11.12.2024.
5. In the 06<sup>th</sup> meeting of the CoC of Corporate Debtor held on 11.12.2024, the Applicant herein apprised the members of CoC that the Transaction Audit report from the appointed auditor outlines various transactions categorized as

Preferential Transactions, in light of which application need to be filed before the Adjudicating Authority for the avoidance of said Preferential transactions.

6. The Applicant has impugned the five transactions as Preferential in nature in terms of Section of 43 IBC and nine transactions as fraudulent in nature in terms of Section 66 IBC. The details of the transactions impugned in the present application are described below :
- a. Non charging of interest on advances given to Respondent No 6 and 7 impugned as preferential transaction u/s 43 IBC;
  - b. Preferential payments to Respondent no. 3 to 5 in priority of other outstanding creditors impugned as preferential transaction u/s 43 IBC;
  - c. Removal of Advances paid to Surya Pratap Singh (Pratap Traders) from books of accounts from FY 2020-21 impugned as fraudulent u/s 66 IBC;
  - d. Write off of balances recoverable from Kalyan Multi Trade and Ashoka Trading impugned as fraudulent u/s 66 IBC;
  - e. Transfer of amounts payable to E-Complex Private Limited to E-Complex Steel and thereafter payment of transferred amounts to E-Complex Steel impugned as fraudulent u/s 66 IBC;
  - f. Transfer of balances recoverable from Kiran Fatehchand Jain to Shreepati Investment RRC, whereby the amounts payable to Shreepati Investment RRC stood settled, impugned as fraudulent u/s 66 IBC;
  - g. Ante-dated entry of amounts received from Sanghvi Realty Pvt Ltd. in books of corporate debtor impugned as fraudulent u/s 66 IBC;
  - h. Transfer of balances recoverable from M/s Chintamani Enterprises and M/s Kalyan Multi Trade to M/s Sikkim Ferro Alloys Ltd. on 31.3.2023, whereby

the amounts payable to M/s Sikkim Ferro Alloys Ltd. stood settled, impugned as fraudulent u/s 66 IBC.

7. The Applicant had initially impleaded the Suspended Board members of the Corporate Debtor as Respondent No. 1 and 2, however, this Tribunal observed that the order u/s 44 of IBC in relation to Preferential Transactions necessitates the affected party, whose interest may be prejudiced by the order if any passed, to be necessary party in the present application, accordingly, the Applicant impleaded the Respondent No. 3 to 7, being parties to the preferential transactions. The Respondents were served the notice by the applicant as well as this tribunal, and the Respondents have filed their reply.
8. We have heard the Counsel and perused the material on record.
9. The applicant has also sought condonation of delay in filing the present application beyond the period specified in Regulation 35A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. Since, the timelines specified in Regulation 35A are held to directory in nature, the delay as sought is condoned.

### **Preferential Transactions**

10. Section 43 IBC deems a transfer of property to a creditor in repayment of antecedent debt as preferential if such repayment results into putting such creditor in a beneficial position than it would have been in case of distribution u/s 53 of IBC.
11. **In relation to non-charging of interest on advances paid to Respondent No. 6 & 7**, the applicant has stated that *“interest was charged to only a few parties, such as Sanghvi Realty Pvt. Ltd. and Sterlite Metal Industries. However, interest was not charged on the debit balances for any of the remaining parties. This deviates from standard financial practices, where loans or advances typically*

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*accrue interest to account for the time value of money. The Corporate Debtor (CD) charged interest on an receivable balance of Rs. 342.40 lakhs for certain parties but did not charge interest on significantly larger receivable balance of Rs. 10,566.94 lakhs, which includes Rs. 9,648.27 lakhs due from connected parties i.e Global Trading (Partnership Firm) & Manlife Trading Pvt. Ltd. The amount of Rs. 9,648.27 lakhs is thus reported under Section 43 of the Insolvency and Bankruptcy Code (IBC) due to preferential treatment". Indubitably, the advances given to Respondent No. 6 & 7 have been paid back by them prior to commencement of CIRP, and there is no allegation in relation to any payment made to these parties towards antecedent debt in priority over other creditors. Section 43 IBC deems any transfer of property in favor of a creditor in preference of other creditors, but does not include within its ambit any preferential treatment. The Applicant has also stated that "The absence of proper documentation, the failure to apply interest on long-standing balances, and the preferential treatment of specific parties, particularly connected parties, suggest that funds may have been misappropriated or / diverted. These actions indicate fraudulent activity and asset mismanagement, which undermine the financial interests of other creditors;". The Applicant has prayed an order in terms of section 43 of IBC in relation to these transaction, and the said section is a deeming fiction, which is to be strictly construed. It is unfathomable as to how non-charging of interest can lead to conclusion that the funds have been misappropriated while the applicant himself has admitted that the amounts advanced to these parties were paid. Nonetheless, the charging of interest on advances from one party and non-charging from another party are dependent on the contractual arrangement between the parties to the transaction, and no adverse inference can be drawn in relation thereto merely on the basis of non-charging of such interest as such arrangements are within commercial prudence of the management, and can not be impugned in terms of section 43 IBC as*

preferential treatment. In view of this, we do not find any merit in the prayer in relation to these transactions. Hence, the prayer(s) in this relation are rejected.

**12. In relation to repayment of advances received from Respondent No. 3 to 5**

during the look back period, it is stated by the applicant that *“The CD's conduct in settling the outstanding balance of Rs. 9,689.52 lakhs owed to connected parties while neglecting other creditors outstanding balance of Rs. 807.20 lakhs (includes outstanding of Rs.602.83 lakhs to E-complex Pvt. Ltd). demonstrates preferential treatment. This action directly falls under the criteria for preferential transactions as outlined in Section 43 of the IBC. Such conduct disrupts the principle of equal treatment of creditors and suggests an attempt to protect connected parties before insolvency proceedings, which is legally impermissible.”* It is further stated by the applicant that *“There were infact other creditors with significantly smaller outstanding balances were not paid”*. The relevant details, as stated in the application in relation to these transactions, are as follows :

- i. Kalmil Overseas Pvt Ltd. had an opening credit balance of Rs. 3,514.17 (in lakhs) as of April 1, 2023, with cumulative credits of Rs. 326.40 (in lakhs) and cumulative debits amounting to Rs. 3,840.57 (in lakhs) and, all consisting of bank receipts and payments, resulting in a zero balance by the end of the period.
- ii. Metalico Trading Pvt Ltd (DRS) began with a credit balance of Rs. 3,678.62 (in lakhs), with cumulative debits of Rs. 3,678.62 (in lakhs), all consisting of bank payments, resulting in a zero balance by the end of the period.
- iii. Metaferro Trading Pvt. Ltd. had an opening credit balance of Rs. 2,496.72 (in lakhs), with cumulative credits of Rs. 444.50 (in lakhs) and cumulative debits totaling Rs. 2,941.21 (in lakhs), all consisting of bank receipts and payments, resulting in a zero balance by the end of the period.

13. It is noted that these parties are stated to be connected parties, however, the relatedness is relevant under section 43 IBC only for the purpose of determination of look back period in terms of section 43(4), and the relationship

is required to be examined in terms of Section 5(24) of the IBC, and not in terms of Section 29A of IBC, which defines the word ‘connected person’. The Applicant has not demonstrated that the director, partner or manager of corporate debtor was accustomed to act on advice, directions or instructions, the shareholders of the corporate debtor, who were director in the Respondent No. 3 to 5. Section 5(24)(d) of IBC terms a private company in which a director, partner or manager of the corporate debtor is a director and holds along with his relatives, more than two per cent. of its share capital, as a related party. Applying this test, only Respondent No. 5 falls within the definition of “Related Party” as Respondent No. 1 holds 85% shareholding in Respondent No. 5 Company.

14. As is observed above, Section 43 of IBC requires a transfer of property in favor of a creditor towards repayment of an antecedent debt owed to it should have the effect of putting such creditor in a beneficial position than it would have been in the event of distribution of assets being made in accordance with Section 53? It is noted that the applicant has not determined whether it is so, as such determination is important in the facts of present case, where there is no financial creditor, and only two operational creditors (one of whom is original petitioner) have filed claims in the CIRP, accordingly, these parties would also receive payments in the event of distribution of assets being made in accordance with Section 53, had such alleged preferential repayment would not have been made by the Corporate Debtor assuming that the debt owed to Respondent No. 3 to 5 was in nature of operational debt. It is also pertinent to note that the applicant has stated in the application that there were debits and credits in the ledger account of these parties, all consisting of bank receipts and payments, resulting in a zero balance by the end of the period. It follows therefrom that the applicant has proceeded mechanically to impugn such repayments as preferential transactions without determining whether such repayment to Respondent No. 3 to 5 results into putting them in beneficial position than what they would have been in the event of distribution u/s 53 of IBC, and if they have been put so, to

what extent they have benefitted. In our considered view, this requires first classification of advances received from these respondents i.e. is it a financial debt or an operational debt or an other debt, which has also not been done by the applicant.

15. On perusal of the ledger account placed on record by the Respondent no. 3 to 5, it is noted that the balances outstanding are wholly made of money given by these Respondents as advances to the corporate over period of time, and there is miniscule settlement of these balances against sale/purchases. The ledger account of corporate debtor, as submitted by Respondent No. 3, shows that corporate debtor owed a sum of Rs. 5,07,72,312.00 as on 31.3.2020 to it, and it went up to Rs. 19,59,82,312.00 as on 31.3.2021; to Rs. 28,10,67,312.00 as on 31.3.2022; and to Rs. 35,14,17,312.00 as on 31.3.2023 and there is no transaction of sale or purchase booked in the ledger. Similarly, the ledger account of corporate debtor, as submitted by Respondent No. 4, shows that corporate debtor owed a sum of Rs. 1,48,38,000.00 as on 31.3.2020 to it, and it went up to Rs. 22,54,97,700.00 as on 31.3.2021; to Rs. 34,55,97,700.00 as on 31.3.2022; and to Rs. 36,70,62,700.00 as on 31.3.2023 and there is no transaction of sale or purchase booked in the ledger. Similarly, the ledger account of corporate debtor, as submitted by Respondent No. 5, shows that corporate debtor owed a sum of Rs. 1,49,17,746.00 as on 31.3.2020 to it, and it went up to Rs. 11,68,96,746.00 as on 31.3.2021; to Rs. 22,93,46,746.00 as on 31.3.2022; and to Rs. 24,96,71,746.00 as on 31.3.2023 and there is no transaction of sale or purchase booked in the ledger. This clearly demonstrates that the amounts received from Respondent No. 3 to 5 were either accommodation entries or financial debt, and could not have been advances received by corporate debtor for supply of goods, as the buyer of goods would not keep on making payments over such long span of period without actually receiving a piece of goods from the supplier. Accordingly, we consider it appropriate to remit the matter back to the Resolution Professional for determination of nature of debt owed by the

corporate debtor prior to repayment to Respondent No. 3 to 5 and determine what would be amounts receivable by these parties in the event of distribution u/s 53 of IBC, had these payments not been made. The Applicant shall be at liberty to approach this tribunal, if he finds any payment having been made in preference in terms of section 43 of IBC after making such assessment.

### **Fraudulent Transactions**

16. It is stated by the applicant that the stated transactions, based on the Transaction Audit Report dated 11 12.2024 have to be reversed in the best interests of the Corporate Debtor, or else the same would lead to irreparable loss to the Corporate Debtor, and also the interests of the Creditors of the Corporate Debtor would be severely prejudiced, and the Respondent No. 1 and 2 have failed to cooperate & provide financial information to the Applicant and Transaction Auditor to conclude the said Transaction Audit Report. It is also stated that, furthermore, the Respondent No. 1 and 2 have failed to provide any response to the Applicant and Transaction Auditor and have also failed to show cause why the aforesaid transactions shall not be treated as avoidance transactions. Therefore, an adverse inference must be taken in the facts and circumstances of the present case.
17. It is observed that the applicant has reproduced the findings of Transaction Auditor's Report and has founded the present application in verbatim on the observation of Transaction Auditor, without forming an independent opinion in relation to these transactions, except above. Further, neither the Applicant nor the Transaction Auditor has made any independent efforts to ascertain the correct state of affairs in relation to the transactions by making an independent inquiry from the concerned parties. Nonetheless, we consider it appropriate to adjudicate these transactions on the basis of material before us.
18. **In relation to Removal of Advances paid to Surya Pratap Singh (Pratap Traders) from books of accounts from FY 2020-21 impugned as fraudulent**

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u/s 66 IBC, it is stated by the Applicant that “*the company claimed to have made an advance payment of Rs. 15 lakhs Lo Pratap Trading on 17.10.2019 and the same is outstanding on 31.03.2020, as per the ledger attached in their reply dt.16.04.2024, for material that was neither received nor refunded. They have provided ledger for the period from 1.04.2019 to 31.03.2020 and also mentioned that payment was made for material that was neither received nor refunded, which makes clear that the Amount is still pending to be received. However, their statement contradicts the Audited financial statements for F.Y-2022-23, as there is no outstanding balance in the name of Shri Surya Pratap Singh or Pratap Trading as of March 31, 2022. Upon reviewing the XBRL financials filed on the ROC website for the periods FY 2020-21 & FY 2021-22, no entries were identified for provisions related to bad debts or any write-offs of bad debts. Moreover, no such entry has been made in the Tally data upto the date of CIRP initiation.*” It is evident from the averment in the application that the said amount is not written off in the books of corporate debtor, accordingly, either this balance is adjusted in another party account or the same is forming part of some other balance sheet grouping. Further, this would have happened in FY 2020-21. It is noted that the Income Tax Department had initiated re-assessment proceedings on account of this transaction made by corporate debtor alleging it to be an accommodation entry, and had rejected the explanation of corporate debtor that the said amount represented advance for purchases in the absence of any purchase order or agreement produced before Income Tax Authority. Such document has not been made available to the applicant as well. Accordingly, if this transaction is assumed to be an accommodation entry, it implies that the then Directors of Corporate Debtor had received cash in exchange of said advance made to Pratap Trading made in FY 2019-20. Alternatively, the transfer of balance receivable from Pratap Trading would have occurred in FY 2020-21. It is noted that the applicant has not made any effort to confirm the status of this

amount from Pratap Trading, despite the address of its proprietor could have been ascertained from the PAN details available in the Income Tax notice.

19. Though, the payment of amount to a party having suspicious credentials, as notified by the Income Tax Department, itself indicates that the payment made to Pratap Trading is fraudulent in nature, more so when this balance is alleged to have disappeared from the books of corporate debtor in FY 2020-21, accordingly, the persons responsible for said execution of said transaction are liable to make contributions.

20. As per transaction audit report, the Respondent No. 1 & 2 were appointed as directors w.e.f. 2.5.2022 & 25.7.2022 respectively, and the Directors of Corporate Debtor during FY 2019-20 were one Mr. Bechraram Kojaramji Dewasi (from 1.1.2020 to 14.8.2020) & Mr. Atul Omprakash Chaturvedi (from 30.9.2016 to 2.5.2022). These persons are not party respondent herein. The Applicant has sought order of contribution from the Respondent No. 1 & 2, who were neither in the management of corporate debtor at relevant time i.e. FY 2019-20 & FY 2020-21, nor were directors of the corporate debtor. Section 66(1) of IBC vests powers in this Tribunal to make order of contribution against persons who were knowingly parties to the carrying on of the business, carried on with intent to defraud creditors of the corporate debtor or for any fraudulent purpose, shall be liable to make such contributions to the assets of the corporate debtor. Since, the Respondent No. 1 & 2 were not involved in the affairs of the corporate debtor, no order requiring them to make contribution u/s 66 can be passed by this Tribunal in relation to this transaction. Hence, the prayer(s) in this relation are rejected.

21. **In relation to write off of balances recoverable from Kalyan Multi Trade and Ashoka Trading impugned as fraudulent u/s 66 IBC**, the Applicant has stated that *“On March 31, 2024, a receivable balance of Rs. 93. 73 lakhs, from Kalyan Multi Trade, were written off through journal vouchers. This write-off appears to lack adequate justification, supporting documentation, or a clear*

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*business rationale. A similar write-off of Rs. 10 lakhs occurred on March 31, 2023, which also lacked proper documentation or formal approval”. It is further stated that “On February 28, 2023, a balance of Rs. 3.00 lakhs, of Ashoka Trading, was written off through journal voucher. This write-off is lacking any supporting documentation, such as invoices, correspondence from Ashoka Trading, or approval from relevant authorities or management”. Both these amounts were reflecting under “Advance to Suppliers”.*

22. It is stated by Respondent no. 1 & 2 that “It is critical to distinguish between bad commercial decisions and fraudulent transactions. The Corporate Debtor did not have financial obligations with any financial institution. The business operations were carried out in good faith between the parties, and obligations were settled based on mutual trust. In light of this, simply writing off debts, without more substantial evidence of malicious intent or deliberate wrongdoing, cannot be construed as a fraudulent transaction. It is further stated that the lack of proper accounting or documentation, while concerning, may stem from operational inefficiencies rather than fraudulent conduct. In such cases, the focus should be on improving internal controls and accounting practices, rather than assuming an intentional motive to deceive creditors or manipulate financial results. It is further stated that, in summary, while the write-offs lack proper documentation and approval, these alone do not provide sufficient grounds to impugn the transactions as fraudulent under Section 66 of the Code. Bad commercial decisions, including the writing off of debts, should not be viewed through the lens of fraudulent intent without clearer evidence of a deliberate effort to deceive or defraud the creditors. The business arrangement and operational context of the Corporate Debtor should be taken into account before jumping to conclusions regarding the nature of these transactions.

23. It is noted that the applicant has sought order for contribution from Respondent No. 1 & 2 for a sum of Rs. 93.73 lakhs (as per prayer H) and Rs. 3.00 Lakhs (as

per prayer I) in relation to write off of balances receivable from M/s Kalyan Multitrade and M/s Ashoka Trading. Accordingly, the arguments in relation to write off of Rs. 10.00 Lakhs in the year ended 31.3.2023 advanced by Ld. Counsel for applicant before us are not supported by the prayer. The Applicant has not stated since when the balances receivable from M/s Kalyan Multitrade and M/s Ashoka Trading were outstanding in the books of corporate debtor, and whether the recovery of such balances from these parties, dehors write off on 31.3.2024 and 28.2.2023 respectively, was permissible under law of limitation, and such write off resulted into keeping such receivables beyond the reach of its creditors. Nonetheless, it is noted that the corporate debtor was admitted into CIRP on 23.04.2024, thus, it can not be ruled out that the write off of receivables from M/s Kalyan Multi-trade would have been an ante-dated entry in the books of corporate debtor. The act of the Respondents in passing such entry in the books of account of the corporate debtor, without any basis, on the eve of commencement of CIRP in case of corporate debtor can certainly lead to a conclusion which is probable than not that the said write-off is fraudulent in nature, hence the Respondent No. 1 & 2 are jointly and severally liable to contribute a sum of Rs. 93.73 lakhs (as per prayer H) and Rs. 3.00 Lakhs (as per prayer I) in relation to write off of balances receivable from M/s Kalyan Multitrade and M/s Ashoka Trading. The said amounts shall be paid within 30 days from the date of this order, failing which, the unpaid amount shall carry an interest @ 12% p.a. chargeable on the unpaid amounts till the principal is actually paid.

**24. In relation to transfer of amounts payable to E-Complex Private Limited to E-Complex Steel and thereafter payment of transferred amounts to E-Complex Steel** impugned as fraudulent u/s 66 IBC, the Applicant has stated that *“the OC has provided a statement of accounts from the CD for the period 1st April 2016 to 4th January 2024 of E Complex Steel. The statement shows transfer of balance of Rs. 602.83 lakhs from E Complex Private Limited to E Complex*

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*Steel on 31st March 2017*”. It is further stated that “*The transfer of Rs. 602.83 Lakhs from ECPL to E Complex Steel without any documented consent or authorization from ECPL, coupled with subsequent payments made by the CD, constitutes a clear indication of transactions under Section 66 of the Insolvency and B9-nkrupcy Code (IBC). This transaction reflects wrongful conduct and potential mismanagement aimed at diverting funds, thereby harming the interests of the creditors*”. The transaction auditor has stated in the report that the balance transfer entry was passed after the financial statements were signed as the financial statements signed on 4th September 2018 showed the balance of E Complex Private Limited to be Rs. 602.83 lakhs as on 31st March 2017; as mentioned in Appel Number 1192/ND/2024 / Filing Number 9910138063742024 the CD claims to have made payment on the OC’s instruction to E Complex Steel (A proprietorship owned by Mr. Jagdish Piraji Purohit having PAN - CWXPP3750M); and during FY 2017-18, payments were made by the CD to E-Complex Steel in several tranches.

25. It is noted that neither the Transaction Auditor nor the Applicant has made any effort to ascertain whether any payment to E-Complex was actually made from the erstwhile directors of E-Complex Private Limited, who had filed CP(IB) 4372 of 2019 on 2.12.2019 culminating into commencement of CIRP process vide order dated 23.04.2024. It is also noted that the CIRP process in case of E-Complex Private Limited commenced on 09.12.2020 by admission of Company Petition No. 563 of 2018. The Resolution Professional of E-Complex Private Limited seems to have not ascertained the status of receivable, if any, from the corporate debtor during the CIRP process of E-Complex Private Limited. It is also noted that the Applicant has impugned the transfer of amounts to the account of E-Complex Steels consequent upon transfer of balance payable to E-Complex Private Limited to the said firm, purported to be done with consent of E-Complex Private Limited.

26. The surrounding circumstances indicate that the amounts paid to E-Complex Steels to purportedly settle the account of E-Complex Private Limited can not said to be so in the absence of any confirmation from E-Complex Private Limited on record during the contemporaneous time, and the money so paid to E-Complex Steels has either been misappropriated by the then directors of Corporate Debtor or by the then directors of E-Complex Private Limited. In our considered view, the Applicant, herein, may require E-Complex Private Limited a ledger account of corporate debtor in its books of accounts for the FY 2017-18 and 2018-19 corroborated by its audited financial statements before proceeding to make any payments to them against their admitted debt, so as to ascertain whether any corresponding entry is made in their books to this effect.

27. Indubitably, the payment of amounts to E-Complex Steels took place in several tranches during FY 2017-18, and the Respondent No. 1 & 2 were not directors during the relevant year, as they were appointed as directors w.e.f. 2.5.2022 & 25.7.2022 respectively. Prior to that, Respondent No. 1 was director of corporate debtor for the period from 28.4.2016 to 11.7.2016. The then directors of the corporate debtor are not party respondent herein. The Applicant has sought order of contribution from the Respondent No. 1 & 2, who were neither in the management of corporate debtor at relevant time i.e. FY 2017-18, nor were directors of the corporate debtor. Section 66(1) of IBC vests powers in this Tribunal to make order of contribution against persons who were knowingly parties to the carrying on of the business, carried on with intent to defraud creditors of the corporate debtor or for any fraudulent purpose, shall be liable to make such contributions to the assets of the corporate debtor. Since, the Respondent No. 1 & 2 were not involved in the affairs of the corporate debtor, no order requiring them to make contribution u/s 66 can be passed by this Tribunal in relation to this transaction. Hence, the prayer(s) in this relation are rejected.

28. **In relation to transfer of balances recoverable from Kiran Fatehchand Jain to Shreepati Investment RRC**, whereby the amounts payable to Shreepati Investment RRC stood settled, impugned as fraudulent u/s 66 IBC, the Applicant has stated that *“On April 1., 2022, Rs. 300 Lakhs receivable from Kiran Fatehchand Jain was transferred to Shreepati Investment RRC through a journal voucher without any valid justification, supporting documentation, or business rationale. The transaction lacks clarity, as no narration or substantiation has been provided. Furthermore, Rs. 300 Lakhs is missing from Shreepati Investment RRC's accounts in FY 2020-21, neither reflected as received nor written off in financial statements.”*
29. Indubitably, the transfer of balances recoverable from Kiran Fatehchand Jain to Shreepati Investment RRC took place during FY 2020-21, and the Respondent No. 1 & 2 were not directors during the relevant year, as they were appointed as directors w.e.f. 2.5.2022 & 25.7.2022 respectively. Prior to that, Respondent No. 1 was director of corporate debtor for the period from 28.4.2016 to 11.7.2016. The then directors of the corporate debtor are not party respondent herein. The Applicant has sought order of contribution from the Respondent No. 1 & 2, who were neither in the management of corporate debtor at relevant time i.e. FY 2020-21, nor were directors of the corporate debtor. Section 66(1) of IBC vests powers in this Tribunal to make order of contribution against persons who were knowingly parties to the carrying on of the business, carried on with intent to defraud creditors of the corporate debtor or for any fraudulent purpose, shall be liable to make such contributions to the assets of the corporate debtor. Since, the Respondent No. 1 & 2 were not involved in the affairs of the corporate debtor, no order requiring them to make contribution u/s 66 can be passed by this Tribunal in relation to this transaction. Hence, the prayer(s) in this relation are rejected.

**30. In relation to ante-dated entry of amounts received from Sanghvi Realty Pvt**

**Ltd. in books of corporate debtor** impugned as fraudulent u/s 66 IBC, the applicant has stated that *“The Corporate Debtor (CD) received Rs. 6.02 Lakhs from Sanghvi Realty Pvt Ltd via RTGS on 6th April 2022 but recorded the transaction in its books as of 31st March 2022. This misrepresentation enabled the transaction included in the financial statements for FY 2021-22, thereby inflating the closing balance for that financial year. However, the corresponding entry appears in the Axis Bank statement only on 6th April 2022, revealing the discrepancy.”* It is not disputed that the said amount was credited in the bank account of corporate debtor and Sanghvi Realty Pvt Ltd’s account in the books of corporate debtor was not credited twice. It is difficult to understand as to how the amount accounted in advance in the books of account, the receipt of which actually occurred after 7 days falling in next financial year, would fall within the ambit of carrying on business with intent to defraud creditors of the corporate debtor or for any fraudulent purpose. In our considered view, minor errors in recording receipts close to financial year-end could occur due to oversight, and does not result into commission of fraud in any manner. Nonetheless, the Respondent No. 1 & 2 were neither in the management of corporate debtor at relevant time i.e. FY 2020-21 (when advance recording took place), nor were directors of the corporate debtor. Hence, the prayer(s) in this relation are rejected.

**31. In relation to transfer of balances recoverable from M/s Chintamani**

**Enterprises and M/s Kalyan Multi Trade to M/s Sikkim Ferro Alloys Ltd. on 31.3.2023, whereby the amounts payable to M/s Sikkim Ferro Alloys Ltd. stood settled,** impugned as fraudulent u/s 66 IBC, the Applicant has stated that *“On March 31, 2023, receivable balances of Rs. 69.65 lakhs from Chintamani Enterprises and Rs. 76.26 lakhs from Kalyan Multi Trade were transferred via journal vouchers to Sikkim Ferro Alloys Ltd. This transfer lacks adequate justification, supporting documentation, or a clear business rationale”.* It is further stated that *“However, these transfers lack proper narration or*

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*explanation, making their purpose unclear. Furthermore, no supporting documentation was available to validate these transactions”.*

32. These transfers had the effect of bringing the amounts receivable from Sikkim Ferro Alloys Ltd. to Nil. The transaction, in question, indicates that such transfer resulted into payment to Sikkim Ferro Alloys Ltd. by assignment of receivables of corporate debtor, and thus the same may fall within the ambit of Preferential transactions in terms of Section 43 of IBC. The transfer of a property towards payment of antecedent debt can not said to be a fraudulent transaction. It is case of the applicant that such transfer of balances was done without any documentation, thus such transfer can be set-aside by this Tribunal in terms of Section 43 of IBC on ground of preferential payments provided such transfer of receivable is also acknowledged by the beneficiary creditor in its books. However, the applicant has not made any effort to ascertain this fact from M/s Sikkim Ferro Alloys Ltd. Nonetheless, the applicant has sought an order of contribution in terms of section 66 of IBC, in our considered view, this tribunal can not set-aside a transaction while passing order u/s 66 of IBC and can only make an order for contribution. Hence, the prayer(s) in this relation are rejected.
33. In terms of the above, IA(IBC) 772 of 2025 is partly allowed and disposed of.

-Sd/-  
**Prabhat Kumar**  
Member (Technical)

-Sd/-  
**Sushil Mahadeorao Kochey**  
Member (Judicial)