

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING  
HELD ON **30.06.2026** THROUGH VIDEO CONFERENCING

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**PRESENT:** HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)  
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

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**IN THE MATTER OF** : K V Capital  
Vs  
Amar Prakaash Developers Pvt Ltd

**MAIN PETITION NUMBER** : CP(IBC)/73(CHE)2022

**(IA/MA) APPLICATION NUMBERS**

IA(IBC)(Plan)/11(CHE)/2025; IA(IBC)/700(CHE)/2026; Ivn.P(IBC)/5/CHE/2026;  
IVN.P/(IBC)/6(CHE)/2026; IA(IBC)/1985(CHE)/2025; IA(IBC)/1877(CHE)/2025;  
IA(IBC)/1905(CHE)/2025; IVN.P(IBC)/11(CHE)/2025; IA(IBC)/1646(CHE)/2024;  
IA(IBC)/1369(CHE)2025; IA(IBC)/2209(CHE)2024; IA(I.B.C)/892(CHE)2025;  
IA(IBC)/2095/(CHE)/2025; IA(IBC)/2082(CHE)/2025; IA(IBC)/53(CHE)2026

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**ORDER**

**IA(IBC)(Plan)/11(CHE) 2025**

Present: Ld. Counsel Shri. Raghav Menon for RP of Amar Prakaash  
Developers Private Limited.

Vide common order pronounced in Open Court, the application is **allowed**. The resolution plan with addendum submitted by the Resolution Applicant Aadarsh Surana is approved with directions.

**Inv.P(IBC)/11(CHE)/2025**

Present: Ld. Counsel Shri. Girish for the Liquidator of EAP Infrastructure  
Private Limited.

Ld. Counsel Shri. Raghav Menon for RP of Amar Prakaash  
Developers Private Limited.

Vide common order pronounced in Open Court, application is **dismissed**.

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**Inv.P(IBC)/5(CHE)/2026**

Present: Ld. Counsel Shri. Krishna Dath for the Applicant

Ld. Counsel Shri. Raghav Menon for RP of Amar Prakaash  
Developers Private Limited.

None for the CoC.

Vide common order pronounced in Open Court, application is **disposed of** with the following observations.

*6.3. Since the amount claimed by the erstwhile Interim Resolution Professional towards his fees and expenses already forms part of the CIRP costs and the CIRP costs are, in any event, payable in priority in terms of Section 30(2) of the Code, the claim of the Applicant stands subsumed within and is to be dealt with as part of the said CIRP costs. So, nothing further survives for adjudication in this Intervention Application.*

**Inv. P / (IBC)/6(CHE)/2026**

Present: Ld. Counsel Shri. V. Adithyan for the Applicant / Latha Devi  
Gani.

Ld. Counsel Shri. Raghav Menon for RP of Amar Prakaash  
Developers Private Limited.

None for the CoC / R2.

None for R3 and R4.

Vide common order pronounced in Open Court, application is **disposed of** with the following observations.

*7.3. Having heard the parties and considered the matter, we are of the view that the Applicant holds a registered Sale Deed dated 23.02.2015 in respect of Flat No. H-111, and the right, title and possession of the said flat in her favour stands recognised by the orders of the TNRERA. The 1<sup>st</sup> Respondent / Resolution Professional is directed to reconcile.*

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7.4. *In so far as the relief at prayer clause (c) is concerned, namely a direction to include the compensation amount of Rs.11,69,520/- said to have been awarded by the Hon'ble TNRERA in CCP No. 134/2019 dated 16.12.2019 and in EP No. 4/2021 in C.No. 306/2019 dated 30.12.2021, in the Resolution Plan, we find that the same cannot be granted. The Applicant has fairly admitted that the said compensation amount of Rs.11,69,520/- was not included in the claim submitted by her before the Resolution Professional in Form CA. It is well settled that the Resolution Professional can collate and admit only such claims as are made before him in the manner and within the time prescribed under the Code and the CIRP Regulations, and a claim that was never lodged before the Resolution Professional cannot be directed to be included in the Resolution Plan at this belated stage, more so after approval of the Resolution Plan by the CoC. The Applicant having not made any claim towards the said compensation/damages before the Resolution Professional, the relief sought at prayer clause (c) is liable to be and is hereby rejected. It is, however, made clear that the treatment of the Applicant as a homebuyer shall be in accordance with the approved Resolution Plan.*

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**IA(IBC) /1905 (CHE)/ 2025**

Present: Ld. Counsel Shri. Raghav Menon for RP of Amar Prakaash  
Developers Private Limited.

Ld. Counsel Shri. Pawan Jhabakh for R1.

Vide common order pronounced in Open Court, the application is **disposed of** with following observations.

*8.3. In view of the undertaking dated 27.05.2026 given by the Resolution Applicant to pay the incentive fee of the Resolution Professional as part of the CIRP cost, and the approval thereof by the CoC in its 39<sup>th</sup> meeting held on 10.06.2026, the very grievance raised in this application stands redressed and the relief sought therein has been substantially secured. The Resolution Applicant shall remain bound by the said undertaking and shall pay the incentive fee of the Resolution Professional, as part of the CIRP cost, in priority, in terms thereof and in accordance with Regulation 34B of the CIRP Regulations, 2016.*

**IA(IBC)/700(CHE)/2026**

Present: Ld. Counsel Shri. RAGhav Menon for RP of Amar Prakaash  
Developers Private Limited

Vide common order pronounced in Open Court, application is **disposed of** with the following observations.

*5.3. The said applications under Section 66 of the Code have already been considered and disposed of by this Tribunal independently by a separate order. In view of the independent disposal of the said Section 66 applications, the very cause for which the present Application came to be filed no longer subsists.*

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**IA(IBC)/1985(CHE)/2025**

Present: Ld. Counsel Shri. Bilal Ali for the Ayra Consortium.

Ld. Counsel Shri. Raghav Menon for RP of Amar Prakaash  
Developers Private Limited.

Vide common order pronounced in Open Court, the application is **dismissed**.

**IA(IBC)/53(CHE)2026; IA(IBC)/2082(CHE)/2025**

Present: Ld. Counsel Ms. Madhuvandhi for State Bank of India.

Ld. Counsel Shri. Pawan Jhabakh for R1 and R2.

Ld. Counsel Shri. Raghav Menon for RP of Amar Prakaash  
Developers Private Limited.

None for LICHFL.

**Vide common order pronounced in Open Court, both the applications are dismissed with no orders as to cost. However, the said dismissal will not prevent State Bank of India / Applicant from initiating proceedings against the Borrowers for recovery of its dues since the flats are under mortgage with the Applicant / State Bank of India.**

**IA(IBC)/1369(CHE)2025; IA(IBC)/1646(CHE)/2024**

Present: None for the Manish Mardia.

Ld. Counsel Shri. Raghav Menon for RP of Amar Prakaash  
Developers Private Limited.

None for the CoC.

Ld. Counsel Shri. Pawan Jhabakh for Aadarsh Surana.

Ld. Counsel Shri. Girish for the Liquidator of EAP  
Infrastructure Private Limited.

Vide common order pronounced in Open Court, both the applications are **dismissed** with no orders as to cost.

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**IA(I.B.C)/892(CHE)2025**

Present: Ld. Counsel Shri. Raghav Menon for the Appliacnt / RP of Amar Prakaash.

Ld. Counsel Shri. Pawan Jhabakh for all the Respondents.

Vide separate order pronounced in Open Court, the application is **dismissed** with no orders as to cost.

**IA(IBC)/2095/(CHE)/2025**

Present: None for the Applicant / Dugar Finance and Investments Limited.

Ld. Counsel Shri. Raghav Menon for the Appliacnt / RP of Amar Prakaash.

**Vide separate order pronounced in Open Court, application is allowed with directions to include the claim of the Applicant as Secured Financial Creditor which may be paid in terms of the resolution plan.**

**IA(IBC)/2209(CHE)2024**

Present: Ld. Counsel Shri. Raghav Menon for RP of Amar Prakaash Developers Private Limited.

Ld. Counsel Shri. Pawan Jhabakh for R2 and R3.

Ld. Counsel Shri. Shri. Girish for the Liquidator of EAP Infrastructure India Private Limited.

None for the other Respondents.

Vide separate order pronounced in Open Court, the application is **dismissed** with no orders as to cost.

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**IA(IBC)/1877(CHE)/2025**

Present: None for the Applicant / NHD Homes.

Ld. Counsel Shri. Raghav Menon for RP of Amar Prakaash  
Developers Private Limited.

Vide separate order pronounced in Open Court, the application is disposed of with the following observations and directions.

*Considering the fact that the claim of the Applicant very much exists in the list of claims as evident from the IBBI website, the same has to be treated in the category of 'Home Buyers' in a class. The claim was never cancelled by the RP nor omitted in the resolution plan.*

Sd/-

**(VENKATARAMAN SUBRAMANIAM)**  
MEMBER (TECHNICAL)

MG

Date: 30.06.2026

Sd/-

**(SANJIV JAIN)**  
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL  
CHENNAI BENCH-1  
AT CHENNAI

IA(IBC)/2209(CHE)/2024

in

CP(IB)/73(CHE)2022

*(filed under Section 66 (2) of the Insolvency and Bankruptcy Code, 2016 R/w rule 11 of the  
National Company Law Tribunal Rules, 2016)*

*In the matter of Amar Prakaash Developers Private Limited*

**1. Mr. Karthik Natarajan**

Authorised Signatory of TruPro Insolvency Services LLP  
Resolution Professional of Amar Prakaash Developers Private Limited  
IBBI Regn No.:IBBI/IPE- 0I40 IIPA- | 12022-23 I5 0004  
IBBI Reg. Add: 581, Top Floor, Sector-27, Gurgaon, Haryana-122001  
IBBI Regn e-mail ID : rohit.sehgal@truproinsolvency.com  
Communication Email: amar.prakaash@trurproinsolvency.com

*... Applicant*

**Vs**

**1. Mr. Aadarsh Surana, Suspended Director**

F2OI, Taisha Housing Society  
Natesan Nagar, 2nd Main Road  
Kalimmankoil Street  
Virugambakkam  
Chennai – 600 091  
E-mail ID: aadarsh@amarprakash.in

*... Respondent No.1*

**2. Mr. Aashish Surana**

2, Rajendra Prasad Road  
Nehru Nagar  
Chromepet  
Chennai-600044  
E-mail ID: kuideeplay@smail.com

*... Respondent No.2*

3. **Mr. Sudhir Surana**  
Taisha Housing Society  
Natesan Nagar  
2<sup>nd</sup> Main Road  
Kalimmankoil Street  
Virugambakkam  
Chennai – 600091  
E-mail ID: aadarsh@amarprakash.in  

. . . Respondent No.3
  
4. **Chandrasekhar Sagutoor**  
Liquidator EAP Infrastructures Pvt. Ltd.  
First Floor F4 & F5, SVP Salma Arcade Complex  
No.333/ 17, Arcot Road  
Kodambakkam  
Chennai, Tamil Nadu-600024  
E-Mail ID: sagutoor@gmail.com  

. . . Respondent No.4
  
5. **Tarun Kumar Dugar**  
Director  
EAP Infrastructures Pvt. Ltd  
38/71, 1st Main Road, New Colony  
Chrompet, Kancheepuram Dist.  
Chennai- 600044  

. . . Respondent No.5
  
6. **Mohan Vijay Amirtharaj**  
Director  
EAP Infrastructures Pvt. Ltd  
41, Ranga Nagar, 4<sup>th</sup> Cross Street  
Thiruneernalai  
Chromepet, Kancheepuram Dist.  
Chennai - 600044  

. . . Respondent No.6
  
7. **Vridhhi Foundations Private Limited**  
No.9, Happiness Tower, 1st Floor  
Sudhir Surana Salai, Amarprakash Nagar  
Kancheepuram  
Chennai, Tamil Nadu – 600132  

. . . Respondent No.7

8. **Manivasagam Dheeran**

Director  
Vriddhi Foundations Private Limited  
No.9, Happiness Tower, 1st Floor  
Sudhir Surana Salai  
Amarprakash Nagar  
Kancheepuram  
Chennai, Tamil Nadu – 600132

... Respondent No.8

9. **Dinesh Kumar**

Director  
Vriddhi Foundations Private Limited  
No.9, Happiness Tower, 1st Floor  
Sudhir Surana Salai  
Amarprakash Nagar  
Kancheepuram  
Chennai, Tamil Nadu - 600132

... Respondent No.9

10. **Guru Info Solutions Private Limited**

No.9, Happiness Tower  
1<sup>st</sup> Floor, Sudhir Surana Salai  
Amarprakash Nagar  
Kancheepuram, Chennai, Tamil Nadu - 600132

... Respondent No.10

*For Applicant : Raghav Menon, Advocate*

*For Respondent : Pawan Jhabakh, Advocate for SRA  
Bhagavath Krishnan, Advocate for R4*

**CORAM:**

**SANJIV JAIN, MEMBER (JUDICIAL)**

**VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

***Order Pronounced on 30<sup>th</sup> June, 2026***

**ORDER**

*(Heard Through Hybrid Mode)*

1. This application has been filed seeking the following reliefs.
  - i. *To allow the present application;*
  - ii. *To issue directions under Section 66 (2) of the I & B Code to the following to make contributions to the corpus of the Corporate Debtor being contributories under wrongful trading under section 66 (2), IBC:*
    - a. *Respondents No. 1 and 2 i.e. Aashish Surana to contribute a sum of Rs.3,18,02,635/-*
    - b. *Respondent No. 1 and 3 i.e. Sudhir Surana to contribute a sum of Rs.97,24,770/-*
    - c. *Respondents No. 1 and Respondent No. 4 i.e. EAP Infrastructure Pvt. Ltd. through its directors, Respondents No. 5 and 6 to contribute a sum of Rs. Rs.60,70,63,414/-.*
    - d. *Respondent No. 1 and Respondent No. 7 i.e. Vriddhi Foundations through its directors, Respondent No. 8 and 9 to contribute a sum of Rs.6,30,79,146/-.*
    - e. *Respondent No. 1 and Respondent No. 10 i.e. Guru info Solutions Pvt Ltd through its directors, Respondent No. 8 and 9 to contribute a sum of Rs.25,22,138/-; or*
    - f. *Respondent No. 1 through its directors, to contribute a sum of Rs.40,00,000-; or*
  - ii. *To issue directions under Section 66 (2) of the I & B Code to the Respondent No. I to make contribution to the tune of Rs. 71,81,92,103/- being the loss sustained by the Corporate Debtor on account of the fraudulent transactions;*

2. The case of the Applicant / RP is that based on review and analysis of the information shared by the suspended Directors and the information available in public domain, the transaction auditor submitted a report on 17.08.2014 highlighting various fraudulent transactions during the period prior to the CIRP commencement date. It is stated that owing to non-cooperation by the suspended Directors, delay occurred in filing the application in terms of Regulation 35A of CIRP Regulations 2016.
  
3. It is stated that there were monetary transactions involving receipts and payments between the Corporate Debtor and Aashish Surana (related party) during the period from 01.04.2018 to 13.01.2023. There was a net transfer of Rs. 3,18,02,635/- to Aashish Surana within two years from the CIRP commencement date which was made at the time, the Corporate Debtor was facing financial difficulties. Although, it was explained by the suspended Directors that the money was transferred in relation to a legitimate land purchase transaction between the Corporate Debtor and Aashish Surana but the forensic auditor report does not accept the explanation and raises the following issues:

*i. The sale deed dated 12.04.2018 provided by the suspended director records the purchase of the land by Aashish Surana, not the Corporate Debtor, so the funds should have flowed from Aashish Surana to the Corporate Debtor, not the other way round.*

*ii. The subsequent sale deed dated 10.07.2020 records sale of property admeasuring 3 acre 3 cents by Aashish Surana to the Corporate Debtor located in No. 42, Rajendra Prasad Road, Nehru Nagar, Chromepet, Chennai-660044, but significant amounts of the agreed purchase price remained unpaid by the CD as of the scheduled completion date. The agreement for sale in addition is not even notarized and lacked details on the payment schedule. Further, no valuation report or justification for the purchase price was provided by the suspended management.*

4. It is alleged that the alleged payments amount to diversion of Corporate Debtor funds to a related party during the period of financial distress and constitute a fraudulent transaction under Section 66 of IBC.
5. It is stated that the audit report identifies the transactions involving financial dealings of the Corporate Debtor with Sudhir Kumar Surana, past Director and family member of the suspended Directors. The record shows that an outstanding credit balance of Rs. 1,35,000/- as on 31.03.2019 and subsequent transactions resulted in a net outflow of Rs. 97,24,770/- to Sudhir Surana between 01.04.2018 to 31.03.2023. Although, the suspended Directors had explained that a flat FE-31 was sold to Sudhir Surana for Rs. 2,97,47,435/- but was later cancelled and it was a normal business transaction but they failed to provide adequate

documentation to support the refund of the purchase amount or provide justification for the excess transfer of funds to him. It is stated that excess transfer occurred when the Corporate Debtor was facing financial difficulties.

6. It is stated that EAP, a related party of the Corporate Debtor holding 15.37% of total equity of the Corporate Debtor was admitted to CIRP and later to liquidation. EAP and the Corporate Debtor were controlled by the same group of persons. The Corporate Debtor issued work orders to EAP for undertaking the development activities at the project site and transferred Rs. 44,70,63,414/- from 01.04.2018 to 31.03.2023 which exceeded the value of the work orders issued for the works at the project "Temple Waves" amounting to Rs. 22.0 Crores. The said transfer was made during the period when the Corporate Debtor was facing liquidity crisis. The actual work performed was not documented. Invoices, work completion certificates and agreements were not provided to justify the transactions. It is stated that the audited financial statement of 2018-19 reveals that mobilization advance of Rs. 16.0 Crores was paid to EAP in relation to "Palm Rivera" which advance remained unchanged for four years. No adjustment of

outstanding balance was made. Further, Liquidator has raised concern about genuiness of the advance payment in Form B of the transaction audit report. No supporting running bills certifying the amount of work could be traced. It is alleged that it is a sham transaction carried out with an aim of embezzlement of funds by the suspended Directors in collusion with EAP.

7. It is alleged that the suspended management also issued work orders to Vriddhi Foundations Private Limited, a related party managed by the same group. During the period from 01.04.2021 to 31.03.2023, the Corporate Debtor made net transfer of Rs. 6,30,79,146/-, however, the work orders provided only account for Rs. 1.0 Crore. It is stated that these monetary transfers occurred when the Corporate Debtor was facing financial difficulties.
8. It is alleged that financial statement for the year 2018-19 shows that the Corporate Debtor invested a sum of Rs. 1,14,15,000/- in Guru Info Solutions Private Limited, a related party by way of 4,55,000 equity and 6,86,500 preference shares to divert the funds of the Corporate Debtor and defraud the Creditors. It is stated that Guru Info made minimal revenue and had larger non-current assets. Between 01.04.2019 to

31.03.2023 there were money dealings involving receipts and payments and there was a net transfer of Rs. 25,22,138/-. The Axis Bank statement shows that Rs. 1,23,35,820/- were paid by the Corporate Debtor to Guru Info as against the amount of Rs. 1,14,15,000/- thus making excess payment of Rs. 9,20,820/- without any explanation and details. Trial balance and financial statements show an excess transfer of Rs. 25,22,138/- to Guru Info which cannot be attributed to payment related to ERP Software.

9. It is alleged that unit I-104 was sold by the suspended management without taking NOC from LICHFL for a sum of Rs. 40.0 Lakh in the project "The "Venezian – Palm Rivera" to Amarjothi. C in violation of terms and conditions of the loan given by the lender with malafide intent to defraud the creditors of the Corporate Debtor for its personal benefit.
10. It is alleged that the affairs of the Corporate Debtor were conducted in a fraudulent manner with an intention to cause wrongful loss to the Creditors and the fraudulent transactions have been quantified to Rs. 71,81,92,103/- within the meaning of Section 66(2) of IBC. The Applicant

has placed the copy of the forensic cum transaction audit report dated 20.06.2024.

11. **Respondent No. 1 in reply** to the above application stated that this Tribunal had directed the RP to do the accounts of the Corporate Debtor vide an order dated 24.09.2024. Had the RP prepared the accounts and done the audit, this application could have been avoided. It is stated that this application has been filed to block the Respondent No. 1 (Resolution Applicant) from participating in the resolution process of the Corporate Debtor. It is stated that the Creditors of the Corporate Debtor were aware about the transactions and its business relationship with the vendors / other Respondents when the loan facility was availed by the Corporate Debtor. It is stated that the alleged transactions were made in the normal course of business and in the interest of the Corporate Debtor. It is stated that this application has been filed beyond the statutory period in terms of Regulation 35A and on this very ground the application is liable to be rejected. The RP has not made any independent determination before filing this application. The fraud has not been established with evidences except the allegations in air on basis of assumptions and presumptions. Reference

is made of the cases (i) *Union of India vs M/s Chaturbhai M. Patel & Co.*, 1976 AIR 712; (ii) *Kshitiz Chhawchharia Vs Madhumalati Merchandise Pvt. Ltd. & Ors. (Ramswarup Industries Ltd.)*, IA(IB) No. 346/KB/2019 in CP(IB) No. 349/KB/2017; (iii) *Regen Powertech Pvt. Ltd. Vs Wind Construction Pvt. Ltd., Company Appeal (AT)(CH)(Ins) No. 349/2022*, and (iv) *Renuka Devi Rangaswamy Vs Mr. Madhusudan Khemka, Company Appeal (AT)(CH)(Ins.) No. 356 of 2022*.

12. It is stated that this Tribunal has no jurisdiction to deal with the application where any transaction has been carried out by the Corporate Debtor with the third parties. Reference is made of the cases (i) *Ramachandra D Choudhary Liquidator of Oasis Tradelink Ltd. Vs Marshall Multiventures (I) Pvt. Ltd.*, IA No. 316/2020 in CP(IB) No. 433/2018 and (ii) *Gluckrich Capital Pvt. Ltd. Vs The State of West Bengal & Ors*, Misc. Application No. 1302 of 2023 (Interlocutory Application No. 102537 of 2023) in Special Leave Petition (CRL) No. .... of 2023 (Diary No. 6732 of 2023). The recourse available to the RP is to file a suit for recovery. It is stated that most of the transactions pertain to the period much prior to the relevant period and have become time barred. There is no provision for recovery of dues for the Creditors of the Corporate Debtor for the

transactions carried out in the normal course of business. Reference is made of the cases (i) *Embassy Property Developments (P) Ltd. v. State of Karnataka*, (2020) 13 SCC; (ii) *Tata International Ltd. Vs Vikram Bajaj, Company Appeal (AT) (Insl) No. 1194 of 2019*; (iii) *ICICI Bank Ltd. Vs Lanco Teesta Hydro Power Ltd., IA No. 104 & 105/2019 in CP 117/7/HDB/2018*; (iv) *Committee of Creditors of Essar Steel India Limited Vs Satish Kumar Gupta &Ors, Civil Appeal No. 8766-67 of 2019* and (v) *Invent Asset Securitisation And Reconstruction Pvt. Ltd. Vs Girnar Fibres Ltd., Civil Appeal No. 3033 of 2022*.

13. On facts, it is stated that the transaction dated 10.07.2020 relates to purchase of property by the Corporate Debtor for Rs. 7,35,00,000/- which had happened with mutual consent with the seller in the normal course of business. The land was resold by the Corporate Debtor at the market value as per details tabulated below.

AASHISH SURANA PROPERTY PURCHASE AGAINST PAYMENT DETAILS		10.07.2020- Sale Agreement / GPA		
Financial Year	Amount	Survey No	Cents	Amount
2020-2021	4,05,37,576	LAND PURCHASE KUNDRATHUR 631/2	100	16025340
		LAND PURCHASE KUNDRATHUR 631/1A	22	6399843
2021-2022	29,62,458	LAND PURCHASE KUNDRATHUR 626/2	107	24206965
		LAND PURCHASE KUNDRATHUR 627/1B	17	2505466
2022-2023	3,00,00,000	LAND PURCHASE KUNDRATHUR 631/1A	44	12799508
		LAND PURCHASE @ KUN 634/1 (PLOT 339 & 340)		11562878
<b>Total</b>	<b>7,35,00,034</b>	<b>Total</b>		<b>73500000</b>

14. It is stated that the amount of Rs. 7,35,00,034/-, includes the transfer of Rs. 3,18,02,635/- as alleged by the RP as fraudulent / wrongful trading (copy is annexed as Annexure 2).
15. It is stated that Sudhir Surana passed away on 26.02.2022. The cost of the flat which was purchased by Sudhir Surana was Rs. 3,43,50,011/-. He had paid Rs. 83,67,000/- to the Corporate Debtor from his own fund towards down payment. Since he cancelled the booking and the Corporate Debtor was liable to refund the down payment along with interest and to the home loan lender under the tri-partite agreement, it made refund of Rs. 97,24,770/- till date. Since the amount payable with interest is Rs. 1,13,76,519/- so the Corporate Debtor is still liable to pay Rs. 16,51,749/-. The tabulation is as under:



less than 10% of the total work orders issued to EAP Infra as summarized below:

FINANCIAL YEAR	PAYMENTS TO EAP Infra	MOBILISATION ADVANCE TO BE ADJUSTED	
2011-2012	70,00,000		<b>Audited Financials</b>
2012-2013	81,64,44,398		
2013-2014	2,02,95,86,053		
2014-2015	1,35,51,62,403	16,00,00,000.00	
2015-2016	1,52,01,05,292		
2016-2017	68,78,10,842		
2017-2018	89,08,65,287		
2018-2019	64,96,60,282	13,26,00,000.00	
2019-2020	16,59,22,660		<b>Funds Paid to EAP Infra</b>
2020-2021	1,17,10,000		
2021-2022	25,14,661		
<b>Total</b>	<b>8,13,67,81,878</b>	<b>29,26,00,000</b>	

- 17 It is stated that the mobilization advance was to be adjusted against the subsequent bills but since EAP went into CIRP and subsequently into liquidation, the Corporate Debtor filed the claims for Rs. 37,67,14,211.80 with the RP of EAP Infra as per claim form Annexure 5. In respect of the payments of Rs. 44.7 Crores to EAP Infra, it were towards the work done of which documents are available in the office. The payments

were made in the normal course of business where EAP had executed necessary works. The bills / vouchers / work orders are available in the office premises. The payment details against bills are attached as Annexure A6.

Bill Details				
Bill Date	Bill Ref No	Bill Amount	Tax	Bill Value
03-04-2018	Phase - II / RA BILL 08	2,20,94,627	39,77,048	2,60,71,675
03-04-2018	Phase - III / RA BILL 05	2,19,05,616	39,43,015	2,58,48,631
03-04-2018	(C,D,E,F,K,L & ST) / RA BILL 05	20,15,677	3,62,822	23,78,499
03-04-2018	(G & M) / RA BILL 08	54,10,735	9,73,931	63,84,666
03-04-2018	(I & J) / RA BILL 08	74,63,803	13,43,487	88,07,290
03-05-2018	Phase - I / RA BILL 08	1,11,08,786	19,99,609	1,31,08,395
03-05-2018	Phase - II / RA BILL 09	2,78,46,548	50,12,387	3,28,58,935
03-05-2018	Phase - II / RA BILL 08	3,61,94,363	65,14,996	4,27,09,359
02-06-2018	Phase - I / RA BILL 09	76,60,590	13,78,942	90,39,532
02-06-2018	Phase - II / RA BILL 09	2,90,86,221	52,35,522	3,43,21,742
02-06-2018	(C,D,E,F,K,L & ST) / RA BILL 06	26,78,910	4,82,204	31,61,114
02-06-2018	(G & M) / RA BILL 09	32,94,950	5,93,086	38,88,035
02-06-2018	(I & J) / RA BILL 09	1,15,84,146	20,85,110	1,36,69,255
30-06-2018	Phase - I / RA BILL 10	69,80,816	12,56,577	82,37,393

30-06-2018	(I & J) / RA BILL 10	92,98,711	16,73,879	1,09,72,590
02-07-2018	Phase - II / RA BILL 10	1,79,50,931	32,31,184	2,11,82,115
02-07-2018	Phase - III / RA BILL 06	1,58,08,619	28,45,553	1,86,54,172
02-07-2018	(C,D,E,F,K,L & ST) / RA BILL 07	2,11,296	38,033	2,49,329
01-08-2018	Phase - III / RA BILL 07	1,94,68,168	35,04,282	2,29,72,450
02-08-2018	Phase - II / RA BILL 10	3,54,69,892	63,84,582	4,18,54,473
02-09-2018	Phase - I / RA BILL 11	36,55,771	6,58,053	43,13,823
02-09-2018	Phase - II / RA BILL 11	1,70,94,509	30,77,030	2,01,71,539
02-09-2018	Phase - III / RA Bill 08	1,40,00,289	25,20,057	1,65,20,345
02-09-2018	TRC - II / RA BILL 11	3,07,94,038	55,42,948	3,63,36,986
02-09-2018	(CLUB 5) / RA BILL 05	10,60,970	1,90,975	12,51,945
02-09-2018	(C,D,E,F,K,L & ST) RA BILL 08	11,14,012	2,00,523	13,14,535
03-10-2018	Phase - I / RA BILL 12	36,89,631	6,64,148	43,53,778
03-10-2018	Phase - II / RA BILL 12	2,64,29,020	47,57,286	3,11,86,306
03-10-2018	Phase - III / RA BILL 09	1,12,53,213	20,25,582	1,32,78,794
03-10-2018	(CLUB 5) / RA BILL 06	17,14,757	3,08,656	20,23,414
02-11-2018	Phase - I / RA BILL 13	26,30,048	4,73,442	31,03,490
02-11-2018	Phase - III / RA BILL 10	1,53,01,027	27,54,193	1,80,55,220
02-11-2018	(CLUB 5) / RA BILL 07	6,86,066	1,23,492	8,09,558
02-11-2018	(C,D,E,F,K,L & ST) RA BILL 10	4,35,268	78,348	5,13,617
02-12-2018	Phase - I / RA BILL 14	13,75,897	2,47,668	16,23,565

02-12-2018	Phase - II / RA BILL 13	2,22,79,698	40,10,391	2,62,90,089
02-12-2018	(C,D,E,F,K,L & ST) RA BILL 11	28,139	5,065	33,204
13-09-2019	Phase - III / RA BILL 11	98,80,088	17,78,420	1,16,58,508
15-09-2019	Phase - I / RA BILL 15	45,08,368	8,11,548	53,19,916
<b>Total</b>		<b>46,14,64,213</b>	<b>8,30,64,071</b>	<b>54,45,28,284</b>

18. As regards funds to Vriddhi Foundations Private Limited, it is stated that the Corporate Debtor had business relations with Vriddhi since 2020. Since EAP came into CIRP, Vriddhi was given work orders and was paid Rs. 6.30 Crores for the value of works of Rs. 9.90 Crores. The balance amount was paid by the Corporate Debtor on behalf of Vriddhi to the vendors being Rs. 3.6 Crores as per table 1, bank statement in table 2 as Annexure 7.

TABLE - 1	
Vridhhi - Work Order Details	
Work Order NO	Amount
AMP-VRF/TW/WO/001/2020-21	20,00,000.00
AMP-VRF/TW/WO/002/2020-21	9,40,00,000.00
AMP-VRF/PR/WO/001/2020-21	20,00,000.00
AMP-VRF/PR/WO/002/2020-21	80,00,000.00
AMP-VRF/SG/WO/001/2020-21	20,00,000.00
AMP-VRF/SC/WO/001/2020-21	20,00,000.00
AMP-VRF/TRC/WO/001/2020-21	20,00,000.00
<b>Total</b>	<b>11,20,00,000.00</b>

TABLE - 2		
FINANCIAL YEAR	Net Payment to Vridhhi	BILL Value
2020-2021	5,25,000	
2021-2022	2,50,50,340	9,91,86,792
2022-2023	3,75,05,674	
<b>Total</b>	<b><u>6,30,81,014</u></b>	<b><u>9,91,86,792</u></b>

TABLE - 3				
Bill Details				
Date	Ref. No	Bill Amount	GST	Bill Value
30-06-2021	RA BILL/TW/001/21-22	16,94,915.25	3,05,084.75	20,00,000.00
25-07-2021	RA BILL/TW/002/21-22	90,67,796.61	16,32,203.39	1,07,00,000.00
28-07-2021	RA BILL/TW/003/21-22	1,05,93,220.34	19,06,779.66	1,25,00,000.00
28-09-2021	RA BILL/TW/004/21-22	74,57,627.12	13,42,372.88	88,00,000.00
26-10-2021	RA BILL/TW/005/21-22	74,57,627.12	13,42,372.88	88,00,000.00
28-11-2021	RA BILL/001/21-22	23135593.22	41,64,406.78	2,73,00,000.00
28-12-2021	RA BILL/002/21-22	14183722.16	25,53,069.99	1,67,36,792.14
26-01-2022	RA BILL/006/21-22	22,03,389.83	3,96,610.17	26,00,000.00
28-02-2022	RA BILL/003/21-22	16,94,915.25	3,05,084.75	20,00,000.00
30-03-2022	RA BILL/004/21-22	23,72,881.36	4,27,118.64	28,00,000.00
30-04-2022	RA BILL/005/21-22	16,94,915.25	3,05,084.75	20,00,000.00
31-05-2022	RA BILL/007/21-22	25,00,000.00	4,50,000.00	29,50,000.00
<b>Total</b>		<b>8,40,56,603.52</b>	<b>1,51,30,188.63</b>	<b>9,91,86,792.14</b>

19. It is stated that the payments were made in the normal course of business. Vriddhi had executed necessary works for which the payments were made. All the details / bills / vouchers / work orders are available in the office.

20. As regards funds to Guru Info, earlier a sum of Rs. 1,14,15,000/- was invested in 2018-19 to develop the real estate software project for real

estate companies to integrate operations of real estate which included sales, marketing, CRM, supply chain management etc., annexed as Annexure 9. Since the Corporate Debtor was needing support for managing its day to day operations and further the Corporate Debtor had more than 300 employees and 5000 customers, the software was servicing the requirement of the Corporate Debtor. The Corporate Debtor did not opt for the third party platform since it would have costed more and the output would not have been more. It is stated that the investments and payments were made in the normal course of business and the documents in relation thereto are available in the office premises as per details below.

<b>Guru info Solutions Payment summary</b>		
<b>Financial Year</b>	<b>Bill Value</b>	<b>Share Investment by the CD</b>
2012-2013	9,00,000	1,33,50,000
2013-2014	1,17,21,710	
2014-2015	55,20,159	
2015-2016	26,23,644	
2016-2017	-	2,62,50,000
2017-2018	88,500	2,35,20,000
2018-2019	18,56,500	1,14,15,000
2019-2020	16,50,000	
2020-2021	16,50,000	
2021-2022	16,50,000	
2022-2023	16,50,000	
<b>Total</b>	<b>2,93,10,513</b>	<b>7,45,35,000</b>

21. It is stated that the payment of Rs. 25.22 Lakhs was a regular bill payment made in 2019-2023 in the usual course of business qua the works delivered by Guru Info of which data bills / vouchers are available which are annexed as Annexure 10.
22. As regards transfer of Unit II to Amarjothi, it is stated that Unit I-104 was sold by the Corporate Debtor after taking NOC from LICHFL on 23.12.2020 for Rs. 40.0 Lakhs and the NOC is annexed as Annexure 11.
23. It is stated that all the transactions were done with integrity and in the interest of the Corporate Debtor and there was no fraudulent / wrongful trading.
24. Respondent No. 2 Aashish Surana also filed the reply raising the preliminary objection as raised by Respondent No. 1 in his reply. It is stated that no determination was made by the Applicant / RP and thus has failed to establish the fraud with evidences. It is stated that all the transactions are beyond the look back period. It is stated that the transaction dated 10.07.2020 was towards the sale of land to the Corporate Debtor for Rs. 7,35,00,000/- which land the Corporate Debtor resold at the market price which was higher than the sale price. It

includes the transfer of Rs. 3,18,02,635/- which the RP has claimed as wrongful trading.

25. Respondent No. 4 (Liquidator of EAP) also filed the reply wherein he alleged that the entire claim is not borne by any facts and is baseless. It is stated that EAP alone was the Company who was doing the construction work for the projects floated by the Corporate Debtor. There were large scale transactions between the Corporate Debtor and EAP. An application IA/795/2022 has been filed by him before the Tribunal seeking to classify the inventory misappropriation as a fraudulent transaction claiming a sum of Rs. 39.77 Crores from the Directors and the Corporate Debtor. It is stated that after the Corporate Debtor was admitted to CIRP, it filed the claim for Rs. 47.12 Crores which is reflected in the claim list uploaded on the IBBI website by the Applicant. It is stated that under Section 33(5) of IBC, no legal proceeding can be instituted against the Corporate Debtor during the pendency of the liquidation. The entire application is a parrot like repetition of the transaction audit report without any core operation or independent analysis. Audit report shows that bills are lying in the

office of the Corporate Debtor which are to be reconciled without which the present application cannot be proceeded with.

26. It is stated that the Directors of the Corporate Debtor have conveniently used the inventory of EAP without raising any bills on the Corporate Debtor which fact came to the light during the analysis of the statement where the percentage of materials used was much higher than the income generated. It was for this reason, IA/795/2022 was filed. It is stated that the Income Tax Department has also passed the assessment order against EAP for the similar reasons. He denied that all the payments made to the EAP from 01.04.2018 were without considering the value of the work done by EAP. It is stated that no proof has been adduced about the payment of Rs. 16.0 Crores as mobilization amounts. The RP without considering the work done cannot consider the mobilization advance as fraudulent transaction.
27. Respondents No. 4, 5 and 6 filed a common reply wherein they reiterated the preliminary objections as raised by Respondent No. 1 and 2. It is stated that all the transactions were made in the normal course of business and this application has been filed without any basis or evidence.

28. The Applicant / RP filed the common Rejoinder to the reply filed by Respondent No. 1, 5, 6, 8 and 9 wherein he denied the allegations made in the reply and reiterated what was stated in the application. It is stated that the application is not barred by limitation under Regulation 35A. The delay had occurred solely due to non-cooperation by R1 in giving access to the information records and books of accounts which caused delay in getting the transaction / forensic audit report. It is stated that the RP has conducted detailed analysis of the transactions and thereafter formed an opinion leading to filing of the application. It is stated that the application is legally maintainable and this Tribunal has jurisdiction over the matters relating to the Corporate Debtor even in the matters involving third parties when connected to CIRP. It is stated that the third parties are the related parties and beneficiary of the above transactions. Section 66 proceedings are in-rem proceedings relating to the assets of the Corporate Debtor and not the personal actions against the individuals.
29. In Rejoinder to the reply filed by R4, the Applicant / RP denied the allegations of Respondent No. 4. He reiterated the facts as alleged in the application and stated that the transaction audit report conclusively

proves that the funds amounting to Rs. 60,70,63,414/- were transferred to Respondent No. 4 without corresponding value or consideration. The works claimed to have been executed by R4 have been independently valued for Rs. 22.0 Crores leaving a substantial unexplained gap of Rs. 38.71 Crores. The books of accounts reveal systematic syphoning of funds through inflated invoices, fictitious material supply entries, undocumented mobilization advances, unexplained, uncorroborated journal entries. It is stated that common directorship and shareholding pattern were exploited to by-pass the internal controls to divert huge sums of money. It is stated that the application IA/795/2022 filed by R4 does not legitimize the fraudulent transactions. It is stated that Respondent No. 4 has failed to produce actual cost statements, work completion certificates, material procurement bills and labour payment records though burden was on the Respondent No. 4 to prove the same. It is stated that the transaction towards mobilization advance is reflected in the audited financial statement and the bank statement for FY 2018-19. No reconciliation was ever attempted by R4 towards utilization.

30. Respondent No. 1 has filed a memo vide SR. No. 4836 dated 14.11.2025 pursuant to the order of this Tribunal dated 13.10.2025 directing Respondent No. 1 to file a summary with respect to the transactions between the Corporate Debtor and EAP including the amounts disbursed, amounts spent on the works and the liabilities if any of the parties towards refund or claim along with opening and closing balance giving the bill details. The same is reproduced as under.

<b>Bill Details</b>				
<b>Bill Date</b>	<b>Bill Ref No</b>	<b>Bill Amount</b>	<b>Tax</b>	<b>Bill Value</b>
03-04-2018	Phase - II / RA BILL 08	2,20,94,627	39,77,048	2,60,71,675
03-04-2018	Phase - III / RA BILL 05	2,19,05,616	39,43,015	2,58,48,631
03-04-2018	(C,D,E,F,K,L & ST) / RA BILL 05	20,15,677	3,62,822	23,78,499
03-04-2018	(G & M) / RA BILL 08	54,10,735	9,73,931	63,84,666
03-04-2018	(I & J) / RA BILL 08	74,63,803	13,43,487	88,07,290
03-05-2018	Phase - I / RA BILL 08	1,11,08,786	19,99,609	1,31,08,395
03-05-2018	Phase - II / RA BILL 09	2,78,46,548	50,12,387	3,28,58,935
03-05-2018	Phase - II / RA BILL 08	3,61,94,363	65,14,996	4,27,09,359
02-06-2018	Phase - I / RA BILL 09	76,60,590	13,78,942	90,39,532
02-06-2018	Phase - II / RA BILL 09	2,90,86,221	52,35,522	3,43,21,742
02-06-2018	(C,D,E,F,K,L & ST) / RA BILL 06	26,78,910	4,82,204	31,61,114
02-06-2018	(G & M) / RA BILL 09	32,94,950	5,93,086	38,88,035
02-06-2018	(I & J) / RA BILL 09	1,15,84,146	20,85,110	1,36,69,255
30-06-2018	Phase - I / RA BILL 10	69,80,816	12,56,577	82,37,393
30-06-2018	(I & J) / RA BILL 10	92,98,711	16,73,879	1,09,72,590
02-07-2018	Phase - II / RA BILL 10	1,79,50,931	32,31,184	2,11,82,115
02-07-2018	Phase - III / RA BILL 06	1,58,08,619	28,45,553	1,86,54,172
02-07-2018	(C,D,E,F,K,L & ST) / RA BILL 07	2,11,296	38,033	2,49,329
01-08-2018	Phase - III / RA BILL 07	1,94,68,168	35,04,282	2,29,72,450
02-08-2018	Phase - II / RA BILL 10	3,54,69,892	63,84,582	4,18,54,473
02-09-2018	Phase - I / RA BILL 11	36,55,771	6,58,053	43,13,823
02-09-2018	Phase - II / RA BILL 11	1,70,94,509	30,77,030	2,01,71,539
02-09-2018	Phase - III / RA Bill 08	1,40,00,289	25,20,057	1,65,20,345
02-09-2018	TRC - II / RA BILL 11	3,07,94,038	55,42,948	3,63,36,986
02-09-2018	(CLUB 5) / RA BILL 05	10,60,970	1,90,975	12,51,945
02-09-2018	(C,D,E,F,K,L & ST) RA BILL 08	11,14,012	2,00,523	13,14,535
03-10-2018	Phase - I / RA BILL 12	36,89,631	6,64,148	43,53,778
03-10-2018	Phase - II / RA BILL 12	2,64,29,020	47,57,286	3,11,86,306
03-10-2018	Phase - III / RA BILL 09	1,12,53,213	20,25,582	1,32,78,794
03-10-2018	(CLUB 5) / RA BILL 06	17,14,757	3,08,656	20,23,414
02-11-2018	Phase - I / RA BILL 13	26,30,048	4,73,442	31,03,490
02-11-2018	Phase - III / RA BILL 10	1,53,01,027	27,54,193	1,80,55,220
02-11-2018	(CLUB 5) / RA BILL 07	6,86,066	1,23,492	8,09,558
02-11-2018	(C,D,E,F,K,L & ST) RA BILL 10	4,35,268	78,348	5,13,617
02-12-2018	Phase - I / RA BILL 14	13,75,897	2,47,668	16,23,565
02-12-2018	Phase - II / RA BILL 13	2,22,79,698	40,10,391	2,62,90,089
02-12-2018	(C,D,E,F,K,L & ST) RA BILL 11	28,139	5,065	33,204
13-09-2019	Phase - III / RA BILL 11	98,80,088	17,78,420	1,16,58,508
15-09-2019	Phase - I / RA BILL 15	45,08,368	8,11,548	53,19,916
<b>Total</b>		<b>46,14,64,213</b>	<b>8,30,64,071</b>	<b>54,45,28,284</b>

31. The Respondent No. 1 also filed an affidavit vide SR. No. 4840 dated 14.11.2025 stating that the resolution plan approved by the CoC seeks for the cancellation, waiver and discharge of all avoidance applications from the date of approval by this Tribunal as part of reliefs and concessions contained in the plan and as such RP cannot maintain this application.

**Analysis and Findings**

32. We have heard Ld. Counsel for the Applicant / RP, Ld. Counsel for Respondent No. 1 and Ld. Counsel for Respondent No. 4 who have also filed the written synopsis. We have also perused the documents placed on record.
33. This application has been filed under Section 66(2) of IBC. It deals with wrongful trading. As per Section 66(2) of IBC, where any Director of the Corporate Debtor is found to be guilty under the two conditions stipulated in Section 66(2) of IBC, he shall be liable to make contributions to the Corporate Debtor under Section 66(2) of IBC. The conditions are as follows

- (a) before the insolvency commencement date, such director knew or ought to have known that there was no reasonable

prospect of avoiding the commencement of CIRP in respect of such Corporate Debtor and

(b) such Director or partner did not exercise due diligence in minimizing the potential loss to the Creditors of the Corporate Debtor.

34. The NCLT Chennai Bench in *Renuka Devi Rangaswamy, IRP of Regen Infrastructure and Service Pvt Ltd Vs. Madhusudhan Khemka, Suspended Director of Regen Infrastructure and Service Pvt Ltd*, IA(IBC)/1143(CHE)/2021 took note of the judgments under English Law to define wrongful trading in the following terms:

*46. The definition of Wrongful Trading as found in Section 66(2) of IBC, 2016 is somewhat seems to be exhaustive since it does not clearly delineate as to which act committed by a Director or a Partner of the Company would constitute "Wrongful Trading". It is to be noted here that there is no significant Judgment of the Appellate Tribunal and the Hon'ble Supreme Court in relation to the "Wrongful Trading", in view of the fact that the concept of "Wrongful Trading" is being imported from the UK Insolvency Act, 1986 into the IBC, 2016 which is still at a nascent stage in this Country. Thus, it becomes imperative for this*

*Tribunal to refer to the decision of the English Court. Thus, by taking a cue from the judgments rendered by the English Court in this regard, the following acts, but not limited to, would amount to "Wrongful Trading";*

*(i) Repaying the director loan made to the company while other creditors were not paid;*

*(ii) Repayment of a loan to a family member;*

*(iii) A director paying his own salary whilst the salary for the employees was not paid;*

*(iv) Buying goods on credit when there is no means to pay for them;*

*(v) Using customer deposits for cash-flow purposes with no means of supplying goods;*

*(vi) Repaying bank personal guarantees over other creditors;*

*(vii) Not keeping proper accounting records;*

*(viii) Falsification of company records;*

*(ix) Any transfer or sale of assets at anything less than a fair and reasonable commercial value;*

*38. A careful perusal of Section 66 of IBC, 2016 would manifest the fact that it deals with two transactions; Section 66(1) of IBC, 2016 deals with 'Fraudulent Trading' and Section 66(2) of IBC, 2016 deals with 'Wrongful Trading'. Section 66(1) of IBC, 2016 imposes liability on 'any person' who were knowingly parties to the carrying on the*

*business with a dishonest intention to defraud the creditors, to make contribution to the assets of the Corporate Debtor. Thus, essentially for a transaction to qualify under Section 66(1) of IBC, 2016, the following conditions should be satisfied;*

- (a) Liability can be fixed upon 'any person';*
- (b) The said person should knowingly carry on the business with the Corporate Debtor;*
- (c) The said person should have a dishonest intention to defraud the creditors;*

*40. On analysing Section 66(2) of IBC, 2016 it is to be seen that it deals with 'Wrongful Trading' and for a transaction to qualify under Section 66(2) the following conditions must be satisfied;*

- (a) Liability can be fixed upon only 'Director' or 'Partner';*
- (b) They knew, or ought to have concluded that there was no reasonable prospect of avoiding insolvency proceedings;*
- (c) They did not take due diligence with a view to minimising the potential loss to the company's creditors;*

*42. Thus, there seems to be a stark contrast in relation to Section 66(1) and 66(2) of IBC, 2016. It is needless to say that even the scope of sub-section (1) and (2) of Section 66 of IBC, 2016 are different. As to the present case, the Applicant sought the Respondents to make contribution to the Corporate Debtor, under Section 66(2) of IBC, 2016.*

35. As per the explanation to Section 66 of IBC, the Tribunal is mandated to presume that all the Directors of the Corporate Debtor have exercised necessary care and proper due diligence in conducting the affairs of the Corporate Debtor. The burden of proof is on the Liquidator or the RP as the case may be to show that the conduct of the Director was not reasonable or was not in exercise of appropriate due diligence. Where the RP or the Liquidator is unable to establish the same, the statutory presumption operates in favour of the Director and the application under Section 66 against such person ought to be dismissed on account of such statutory presumption as held in the case of *Regen Powertech Private Limited Vs. Wind Construction Pvt Ltd Company Appeal (AT) (CH)(Ins) No. 349 of 2022* supra where it was observed as follows:

*34. One cannot remain 'oblivious' of the candid fact that, if the 'Directors' of a 'Company' had acted on a 'bonafide belief' that the 'Company' would 'recover' from its 'Financial Problems' / 'Difficulties', then, they will not be held liable for the 'act' / 'offence' of 'Fraudulent Trading'.*

*35. As a matter of fact, the 'aspect' of 'Fraudulent Trading' requires a very 'High Degree of proof', which is attached to the 'Fraudulent Intent'. To put it emphatically, a more compelling 'Material' / 'Evidence' is required to satisfy the conscience of this 'Tribunal', 'on a preponderance of probability'. Apart from that, an 'isolated' / 'solo fraud' case, against the person, then, action in 'tort' can be resorted to, as opined by this 'Tribunal'. No wonder, a 'Creditor', who was*

*defrauded, will have 'recourse' to an 'alternative remedy', under 'Civil Law'.*

36. It is not in dispute that the Corporate Debtor Amar Prakaash Developers Private Limited, EAP Infrastructures Private Limited, Vriddhi Foundations Private Limited and Guru Info Solutions Private Limited are the group entities in which Directors were common. Amar Prakaash Developers Private Limited was the Developer which used to provide work orders to EAP Infrastructures Private Limited and Vriddhi Foundations Private Limited for the execution of the civil works at its project sites. It used to pay mobilization advance to them to carry out the construction activities in its projects. Guru Info Solutions Private Limited used to develop software and market the products of the Corporate Debtor. They were in business operations since 2012 without any objection from any of the Creditors of the Corporate Debtor and other entities.
37. As seen from the tabulation placed by Respondent No. 1, the Corporate Debtor had given the work orders to EAP for Rs. 1228.0 Crores. It had paid Rs. 838.0 Crores till then which included mobilization advance of Rs.29.26 Crores out of which Rs. 16.0 Crores were paid in FY 2014-15.

The mobilization advance paid was less than 10% of the value of the total work orders given to the EAP. The statements of accounts / running bills show that the mobilization advance used to be adjusted in the subsequent bills. Since EAP went into CIRP and then into liquidation, for the advances paid, the Corporate Debtor filed the claims for Rs. 37,67,14,211.80 with the RP / Liquidator of EAP as Annexure 5 which advances were paid in the normal course of business to EAP for carrying out the construction activities for the Corporate Debtor. The Respondent No. 1 has annexed the payment details against the bills as Annexure 6. Since EAP went into CIRP and construction activities were not completed by EAP, the Corporate Debtor gave the work orders to Vriddhi Foundations Private Limited for Rs. 9.90 Crores. It paid Rs. 6.30 Crores for the value of the works carried out by Vriddhi Foundations and also paid Rs. 3.60 Crores to the vendors of Vriddhi Foundations as detailed in Table 1 and 2 Annexure 7. The said payments as seen from the record were made in the normal course of business where both the entities delivered and executed the necessary works. The record shows that the Corporate Debtor had invested and paid Rs. 1,14,15,000/- in 2018-19 to Guru Info to develop the real estate

software to integrate the operations of real estate which included sales, marketing, CRM, supply chain management etc., annexed as Annexure 9. The Corporate Debtor was getting support from Guru Info for managing the technology for its day to day operations since it had more than 300 employees and 5000 customers. Going for third party platform was found to be a costly affair and therefore this work was given to group entity Guru Info by the Corporate Debtor. It was done in the normal course of business without any objection from any of the Creditors of the Corporate Debtor with an intention to manage the affairs of the Corporate Debtor effectively and economically. The payment of Rs. 25.22 Lakhs as reflected in the document Annexure A10 was made in the usual course of business for the works delivered by Guru Info. The Respondent No. 1 has also explained that the Unit I-104 was sold by the Corporate Debtor to Amarjothi C after taking NOC as Annexure 11 from LICHL on 23.12.2020 for Rs. 40.0 Lakhs.

38. It is pertinent to mention that the RP / Liquidator of EAP Infrastructures India Pvt Ltd had filed an application IA/795/2022 in IBA/1064/2019 in the matter of EAP Infrastructure India Private Limited against the Corporate Debtor and its Directors where this Tribunal in its order

observed that the CIRP against EAP was initiated on 02.09.2021. Without getting the transaction audit conducted by the RP, he filed the application on the basis of books of accounts, balance sheets and tally data. It was observed that the Corporate Debtor had outsourced the construction activities to EAP. EAP used to procure materials for carrying out the construction activities on the work orders placed by the Corporate Debtor. Payments used to be released by the Corporate Debtor to EAP based on the works measured / certified. It was observed that the RP of EAP linked the revenue with the consumption of materials, though in the construction project, revenue is linked with billing and the billing is linked with progress of work / construction. The proper course for the RP of EAP was to get the construction work audited from a certified Chartered Engineer to find out what amount of work was executed by the EAP for the Corporate Debtor and what revenue was released by the Corporate Debtor to EAP against the work done. In construction work, there are many stages. In structural work, expenditure is less but in finishing work expenditure is more. The stock inventory is prepared on the basis of the materials consumed in the works. The RP after taking the services of the Chartered Engineer

should have assessed the consumption of materials in the project on the basis of the work done instead basing the application on the revenue collection. It was observed that before the commencement of the CIRP of the Corporate Debtor, the Promoter Directors of the Corporate Debtor had filed the claim against the EAP for Rs.37,67,14,211/- which was rejected by the RP of EAP though at the time of filing of the claims, the Promoter Directors had given the statement of accounts and copies of work orders. That being the position how the liability as claimed by the RP of EAP can be fastened on the Corporate Debtor. It was observed that these transactions were carried out in the usual course of business and there is no record indicating that the Promoter Directors derived any benefit out of the transactions. They had taken the decisions in the best interest of the Corporate Debtor and cannot be held personally liable. It was also noted that the RP of EAP has filed the claims for Rs.39.77 Crores with the RP of the Corporate Debtor which the RP has provisionally admitted. It was held that the transactions impugned in the application are not the fraudulent transactions attracting Section 66 of IBC. There are enough supporting documents / materials to justify the transactions

made by the Corporate Debtor with the above entities and the documents clearly prove that these transactions were the genuine transactions and not the fraudulent / wrongful transactions to bring the case within the ambit of Section 66(2) of IBC.

39. As regards transactions with Aashish Surana, related party, Respondent No. 1 has explained that the transaction dated 10.07.2020 relates to purchase of a land by the Corporate Debtor for Rs. 7,35,00,000/-. The land was later resold at the market value which was higher than the purchase value. The said transaction includes transfer of Rs.3,18,02,635/- allegedly the fraudulent transaction. The table as Annexure 1 clearly explains the transactions. The sale agreement / GPA in respect of the property was executed on 10.07.2020 for Rs. 7,35,00,000/- which Aashish Surana purchased in the financial years 2021-2023 for Rs. 7,35,00,034/-. The payment was made in two tranches in discharge of the liabilities by the Corporate Debtor.
40. As regards allegations qua siphoning of funds by Sudhir Surana, record shows that Sudhir Surana had purchased a flat FE-31 from the Corporate Debtor for Rs. 2,97,00,435/-. He paid the margin money of

Rs. 83,67,900/- as down payment from his own fund. He had taken loan from LICHFL for the balance amount which directly transferred the amount to the Corporate Debtor after entering into a tri-partite agreement. He cancelled the flat and claimed the refund of the down payment / margin money with interest against which he was paid Rs.97,24,770/- by the Corporate Debtor. As per the tri-partite agreement, Sudhir Surana was jointly and severally liable to service the loan of LICHFL. It is pertinent to mention that after cancellation, the flat went to the inventory of the Corporate Debtor and LICHFL filed the claim in respect of the aforesaid flat which the RP has admitted during the CIRP of the Corporate Debtor. Respondent No. 1 has given the details of the payments and calculation of interest as Annexure 3 including bank statement, customer receipt summary, sale agreement, flat cancellation request and cancellation letter issued by the Corporate Debtor. In the present case, the Applicant / RP has not raised any allegation as to the preferential transaction with Sudhir Surana allowing the cancellation. That being the position, how the transaction / Forensic Auditor came to a conclusion that there was excess transfer of Rs.97,24,770/- to Sudhir Surana or there was diversion of funds. It was

the refund made by the Corporate Debtor after accepting the cancellation of the amount paid as margin money / down payment.

41. It is true that the above transactions were made with the related parties but none of the Creditors had objected when the alleged transactions were made. The other entities are the group entities of the Corporate Debtor which used to work for the Corporate Debtor in different fields but towards the activities relating to the affairs of the Corporate Debtor. There was nothing wrong on the part of the Corporate Debtor to have business dealings / transactions with the above entities. There is no evidence that the Promoter Directors of the Corporate Debtor derived any benefit out of the alleged transactions or they siphoned off the monies of the Corporate Debtor. The transactions have been duly explained by the Respondents though onus was upon the Applicant / RP to prove the transactions. We are of the view that the Applicant / RP blindly acted on the report of the transaction / forensic auditor without independently applying its mind without considering the bills / invoices / documents / records which were lying in the office of the Corporate Debtor and were in the custody of the Applicant / RP.

42. As regards delay in filing the application, admittedly, Regulation 35A of CIRP Regulations imposes a duty on the RP to take measure within the timeline and any action taken by RP beyond the time prescribed is prohibited, but it has been held in catena of judgements i.e. in the case of *Aditya Kumar Tibrewal vs Om Prakash Pandey &Ors (Company Appeal (AT) Insolvency No. 583 of 2021)* and *Prasant Chandra Rath&Anr vs Surya Kanta&Anr (Company Appeal (AT) Insolvency No. 869 of 2022)* by Hon'ble NCLAT that the timeline prescribed in Regulation 35A of CIRP Regulations is only directory and any action taken by the RP beyond the time prescribed, cannot be held to be non-est or void on the ground that it is beyond the prescribed period, if there are genuine and valid reasons for the RP for not filing the application for avoidance transactions within the time prescribed.
43. As regards contention of Respondent No. 1 in the affidavit referred at para 31, this Tribunal has in detail dealt this contention in the order on the application IA(IBC)/892(CHE)/2025 and need not deal with it again.
44. An analysis of the above discussions clearly brings forth to the light that the transactions made by the Respondents were in the ordinary course of business or the financial affairs of the Corporate Debtor and were not

the wrongful transactions. These transactions do not in any manner prejudice the interest of the creditors.

45. In the light of what has been stated above, we are of the view that the Applicant has not made a case of wrongful transactions on the part of the Respondents except making sweeping allegations and hence Section 66(2) of IBC, 2016 cannot be invoked under such circumstances. The present Application being sans merit is liable to be dismissed.
46. Accordingly, the application IA(IBC)/2209(CHE)/2024 is **dismissed** with no orders as to costs.

**Sd/-**

**VENKATARAMAN SUBRAMANIAM**  
MEMBER (TECHNICAL)

**Sd/-**

**SANJIV JAIN**  
MEMBER (JUDICIAL)