THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I

IA (COMPANIES.ACT)/3915 (MB) 2025 IN CP/645 (MB) 2024

under Section 66 (1) of the Insolvency and Bankruptcy Code, 2016.

Atul Rajwadkar
(Resolution Professional)

...**Applicant**

V/s

Mahesh Guvvala & Ors.

…**Respondents**

In the matter of
COMPANY PETITION (IB) NO. 645 OF 2024

State Bank of India

…Petitioner/Financial Creditor

V/s

Marvelous Metals Pvt. Ltd.

…Corporate Debtor

Order delivered on: 15.07.2026

***Coram**:*

Shri Prabhat Kumar	**Shri Sushil Mahadeorao Kochey**
Hon'ble Member (Technical)	Hon'ble Member (Judicial)

Appearances:

For the Applicant	:	Adv. Nikita Abhyankar
For the Respondents	:	Adv. Rohit Gupta, Adv. Somesh Talla, Adv. Kuldeep Kulkarni, Adv. Nikhil Pathak a/w Adv. Parth Indalkar

ORDER

1. This Application IA 3915/2025 is filed on 31.7.2025 by Mr. Atul Rajwadkar ("Applicant/RP"), the Resolution Professional of Marvelous Metals Pvt. Ltd. ("Corporate Debtor") in the Corporate Insolvency Resolution Process ("CIRP") thereof under Section 66(1) of the Insolvency and Bankruptcy Code, 2016 ("IBC"), seeking following reliefs:-

   a) *This Hon'ble Tribunal be pleased to allow the present Application;.*

   b) *This Hon'ble Tribunal be pleased to condone the delay of 29 days in filing the present Application;*

   c) *This Hon'ble Tribunal be pleased to pass an Order that the Respondents have knowingly been parties to the fraudulent transaction and are liable to contribute and/or otherwise bring back an amount of Rs. 99,15,610/- (Rupees Ninety-Nine Lakhs Fifteen Thousand Six Hundred and Ten Only) along with interest towards payments made to related parties under the guise of machining labour charges;*

d) *This Hon'ble Tribunal be pleased to pass an Order that the Respondents have knowingly been parties to the fraudulent transaction and are liable to contribute and/or otherwise bring back an amount of Rs. 37,43,480/- (Rupees Thirty-Seven Lakhs Forty -Three Thousand Four Hundred and Eighty Only) along with interest towards payments made to related parties under the guise of salary and interests;*

e) *This Hon'ble Tribunal be pleased to pass an Order that the Respondents have knowingly been parties to the fraudulent transaction and are liable to contribute and/or otherwise bring back an amount of Rs. 8,82,57,000/- (Rupees Eight Crores Eighty -Two Lakhs Fifty -Seven Thousand Only) along with interest towards missing stock and inventories that are taken out from the sites of the Corporate Debtor;*

f) *This Hon'ble Tribunal be pleased to pass an Order that the Respondents have knowingly been parties to the fraudulent transaction and are liable to contribute and/or otherwise bring back an amount of Rs. 8,73,000/- (Rupees Eight Lakhs Seventy - Three Thousand Only) along with interest towards missing cash balance of the Corporate Debtor;*

g) *Pending the hearing and final disposal of the present Application, this Hon'ble Tribunal be pleased to direct the Respondents to secure a cumulative amount of Rs. 10,27,89,090/- (Rupees Ten Crores Twenty-Seven Lakhs Eighty-Nine Thousand and Ninety Only)/-;*

h) *Pass any other and further such orders as this Hon'ble Tribunal may deem fit.*

i) *For Costs.*

2. The Company Petition CP(IB) 645 of 2024 filed by State Bank of India on 26.3.2024 was admitted vide an Order dated 13.12.2024 and accordingly the Corporate Debtor was subjected to Corporate Insolvency Resolution Process ("CIRP") appointing one Mr. Anuj Bajpai as the Interim Resolution Professional ("IRP"). Later on, the CoC resolved to the Applicant herein as Resolution Professional. Thereafter, the Corporate Debtor was admitted into the Liquidation Process vide order dated 4.8.2025 passed in IA (IBC) (LIQ) 53 of 2025 appointing applicant as liquidator.

3. The Applicant has arrayed directors of the Corporate Debtor as on CIRP commencement date, namely Mr. Mahesh Kumar Guwala and Mr. Aloke Chakravarty as Respondent Nos. 1 and 2 respectively. Further, ex-directors of Corporate Debtor, namely, Ms. Yashada Joshi, Mr. Mansingrao Jadhav, Mr. Mansing Pawar, Mr. Shivajirao Pawar, Mr. Shersing Prataprao Pawar and Mr. Inderjeet Pawar are arrayed as Respondent No. 3 to 8 respectively. Ms. Pankaja Himmat Pawar, proprietor of Himmat Industries and one of the shareholders of the Corporate Debtor, is arrayed as Respondent No. 9. M/s Marvelous Precision Pvt. Ltd., recipient of Machine Labour Charges and managed by one Mrs. Priti Surjitsing Pawar, the shareholder of the Corporate Debtor, is arrayed as Respondent No. 10. The particulars of appointment and cessation of Respondent No. 1 to 8 are stated as follows:

Respondent No.	Name	Date of Appointment	Date of Disqualification	Date of Re-appointment	Date of Resignation
1.	Mahesh Guvvala	05.11.2023	NA	NA	NA
2.	Aloke Chakravarty	09.02.2023	NA	NA	NA
3.	Yashada Joshi	15.09.2005	NA	NA	22.02.2023
4.	Mansingh Jadhav*	13.02.2022	Declared Disqualified by statutory auditor for FY 2017-18 and 2018-2019	13.02.2022 (Additional Director) 24.02.2022 (Director)	31.10.2023
5.	Mansingh Pawar	16.07.1985	Declared Disqualified by statutory auditor for FY 2017-18 and 2018-2019	13.02.2022 (Additional Director) 24.02.2022 (Director)	31.10.2023
6.	Shivajirao Pawar	16.07.1985	Declared Disqualified by statutory auditor for FY 2017-18 and 2018-2019	13.02.2022 (Additional Director) 24.02.2022 (Director)	31.10.2023
7.	Shersingh Pawar	15.10.2020	NA	NA	25.07.2024
8.	Inderjeet Pawar	15.10.2020	NA	NA	31.10.2023

** Data mentioned in Balance Sheets does not corroborate with records available with the MCA.*

4. It is stated by the Applicant that, upon his appointment as the RP, he made efforts for gathering further information in accordance with Regulation 4 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations"). Based upon whatever data was available upon the commencement of CIRP and subsequently gathered by the Applicant herein, the Transaction Audit Report was received on or about June 5, 2025.

5. It is further stated by the Applicant that the erstwhile IRP had sought certain details from the Directors of the Corporate Debtor with

suspended powers. However, since no requisite details were received, the erstwhile IRP preferred an Application under Section 19 of the Code, being I.A. No. 1663 of 2025. In that application, this Tribunal, inter-alia, passed the following orders :

Order dated 16.07.2025

"......2) Respondents are directed to provide books of accounts till the date of commencement of Corporate Insolvency Resolution Process within a period of Seven days from today, failing which it shall be presumed that they being the Director of the Corporate Debtor have failed to maintain the regular books of accounts and preserve the same as required under Section 128 of the Companies Act, 2013 and this Bench shall be constrained to issue necessary directions to the Registrar of Companies for appropriate proceedings under Companies Act, 2013.

3) Respondents are also directed to look at the details of the information / documents sought by the Applicant herein which is listed at page 7 of the Affidavit dt. 16.07.2025 and shall file an Affidavit on record thereby stating what documents have been provided by them and if any information/documents is not available and not provided, then the reasons of non-available of said information and documents."

Order dated 13.08.2025

"……..4. Ld. Counsel for the Applicant submits that the Respondents are not appearing before this Tribunal and they have not provided the books of accounts also. We note that the Respondents have not appeared today also. In view thereof, we

direct the Registrar of Companies to take notice of failure of the Respondent directors to maintain and preserve the books of in terms of Companies Act, 2013 and initiate appropriate proceedings under the Companies Act, 2013. The Applicant is directed to serve a copy of this order to the Registrar of Companies for necessary action. 5. The Applicant shall also be at liberty to refer this matter to IBBI for appropriate proceedings against Suspended Director for their non-cooperation during the CIRP process giving complete details of proceedings...”

6. It is further stated that pending the receipt of the Transaction Audit Report and based upon the interim findings by the Transaction Auditors, certain communications were made to the suspended Directors of the Corporate Debtor and to the ex-Directors/shareholders of the Corporate Debtor. However, no response was received from any of the said persons.

7. It is further stated by the Applicant that, subsequently upon receipt of the Transaction Audit Report, once again, communications were advanced to the suspended Directors of the Corporate Debtor and to the ex-Directors/shareholders of the Corporate Debtor. Pursuant thereto, the Respondent No. 7 responded thereby providing a copy of a certain Petition alleging Oppression & Mismanagement within the Company. However, it appears that the said Petition was only e-filed without taking any further steps to remove the defects as may have been raised in the matter.

8. It is further stated by the Applicant that, the said Transaction Audit Report was placed before the Committee of Creditors on or about June

9, 2025 and pursuant thereto, the Applicant is filing the present Applications under Section 66 of the IBC for reasons and on grounds more particularly specified in the Application.

9. The Applicant has impugned the following transactions as fraudulent in terms of Section 66 of IBC :

a. Payment of Rs. 99,15,610/- to related parties for Machining Labour Charges;

b. Salaries and interests amounting to Rs. 37,43,480/- paid to related parties;

c. Missing stock amounting to Rs. 8,82,57,000/-; and

d. Missing Cash in Hand amounting to Rs. 8,73,000/-.

10. Besides above transactions, the applicant has also stated that following transactions could not be impugned in the present application due to unavailability of details and documents :

Sr No	Transaction	Amount
I	Advances made to related parties	Rs. 9,24,000/-
II	Interest paid or payable to related parties	Rs. 1,50,330/-
III	Transfer of funds to related parties	Rs. 14,30,050/-
IV	Capital Work in Progress	Rs. 5,21,31,000/-
V	Transactions with Ajara Urban Co-operative Bank Limited	Rs. 2,56,24,850/-
	Total	**Rs. 7,89,73,230/-**

11. Since there is no prayer in relation to transactions stated at Para 9 above and no further evidence(s) were placed on record, the afore stated transactions are not dealt hereunder.

12. Respondent 1 to 5, 7, 9 & 10 have filed their replies.

13. Heard the Counsel and perused the material on record.

14. The Respondents have raised objection in relation to non-adherence to the timelines specified in Regulation 35A of CIRP Regulations. It is trite that timelines specified therein are directory in nature, and non-adherence thereto does not render the application u/s 66 or in relation to avoidance transactions non maintainable.

15. It is noted that Respondent No. 1 and 2 were appointed as director on 5.11.2023, and Respondent No. 5, 6 & 8 were directors till 31.10.2023; Respondent No. 3 resigned on 22.02.2023; Respondent No. 4 appointed on 13.2.2022 resigned on 31.10.2023; and Respondent No. 7 appointed on 15.10.2020 resigned on 25.07.2024.

16. The applicant has impugned four transactions and the facts in relation thereto are different, accordingly, each of impugned transaction is being analysed in the light of submissions of applicant and concerned respondents in the following paragraphs.

Payment of Rs. 99,15,610/- to related parties for Machining Labour Charges;

17. Following payments in FY 2021-22 have been impugned as fraudulent :

Sr. No	Related Party Name	Relationship	Amount in Rs. '000
1.	Marvelous Precision Pvt. Ltd	Key Management Personal holds substantial interest	4685.66
2.	Himmat Industries	Key Management Personal holds substantial interest	2062.56
3.	Angel Industries	Key Management Personal holds substantial interest	2033.59
4.	Marvelous Tooling	Key Management Personal holds substantial interest	1133.80
	TOTAL		**9915.61**

18. It is stated that the above parties are related to the Respondents in the following manner :

a. Marvelous Precision Pvt. Ltd. (Respondent No. 10) is controlled by the Respondent No. 7 herein as per Financial statements for the year 2021-22, and the said Respondent No. 7 is also one of the shareholders of the Corporate Debtor. Further, as per MCA records, M/s Marvelous Precision Pvt Ltd (Respondent No 10) is under the control of one Mrs. Priti Surjitsing Pawar, who happens to be one of the shareholders of the Corporate Debtor.

b. M/s Himmat Industries is under the control of Respondent No. 9, one Ms. Pankaja Himmat Pawar.

c. Angel Industries and Marvelous Tooling are under the control of Respondent No 8)

19. Accordingly, it is stated that the aforesaid Respondents have benefited from payments made to aforesaid parties as Machining Labour Charges. Indubitably, the applicant has not impugned machining charges booked in any of earlier financial years.

20. It is noted from the audited financial statements of corporate debtor for the year 2021-22, that total machine charges incurred during FY 2021-22 and preceding year 2020-21 were Rs. 2,77,94,000 and Rs. 2,79,50,000, and Corporate Debtor earned revenue from 'Sale of Machine Castings' amounting to Rs. 29,83,53,000 and Rs. 29,18,81,000 during the corresponding years. The Machining Labour charges are debited to the profit & loss account as 'Direct Expenses' indicating thereby that the machining labour charges have direct relationship with the 'Sale of Machine Castings', and the proportion of Machining Labour charges to 'Sale of Machine Castings' during the financial year 2021-22 approximates the proportion both have in immediately preceding financial year.

21. It is also noted that the Corporate Debtor incurred Rs. 3,12,97,974/- towards Machining Labour charges against the revenue of Rs. 26,55,81,580/- from 'Sale of Machine Castings' in financial year 2019-20, which is higher in percentage terms than in the succeeding year(s). It is relevant to note that such Machining Labour charges were paid to these parties in the FY 2020-21 as well as is evident from form AOC-2 placed at page no. 232 of Compilation of Documents filed by the Applicant.

22. The Ld. Counsel for the Applicant was specifically asked by this Tribunal whether they are impugning Machining Labour charges for earlier years also, however, the Ld. Counsel had no answer to the query. In the absence of allegation that the Machining Labour charges incurred in earlier year(s) were inflated as compared to 'Sale of Machine Castings', we are of considered view that the payment of Machining labour charges can not

be impugned as fraudulent merely because such charges were paid to related parties.

Salaries and interests amounting to Rs. 37,43,480/- paid to related parties

23. It is alleged by the Applicant that salaries paid to Respondent No. 3 to 8 during the FY 2020-21 was a cumulative of Rs. 10.17 lakhs as compared to Rs. 37.43 lakhs in FY 2021-22 which is a rise of 368.04%, while the operations of Corporate Debtor had stopped thereafter.

24. Note 32 to Audited Financial Statements for the year ended 31.3.2022 (page 313 of Computation of Documents placed by the Applicant) discloses the payments made to Directors as follows :

1 PAYMENT TO DIRECTORS

During the Current Financial Year, the following amounts are paid. Board of Directors has accorded its consent for this payment/reimbursement.

Sr. No.	Name of the Directo	Conveyane	Salary	Interest On Deposit	Year Ended Audited March 31, 2022	Year Ended Audited March 31, 2021
		Rs.	Rs.			
1	Smt. Y. A. Joshi		0	80,000	80000	27750
2	Mr. Shersing P Pawar		571,392	2,500	573892	551915
3	Mr. Indrajeet S Pawar		486,048		486048	467354
4	Mr. Mansingrao J Jadhav		1,163,016		1163016	1118285
5	Mr. Mansing S Pawar		360,000	67,800	427800	67800
6	Mr. Shivajirao S Pawar		1,163,016		1163016	1114557
	Total	0	3,743,472	150,300	3,893,772	3,347,561

25. Note 32 to Audited Financial Statements for the year ended 31.3.2021 (page 255 of Computation of Documents placed by the Applicant) discloses the payments made to Directors as follows :

PAYMENT TO DIRECTORS

During the Current Financial Year, the following amounts are paid. Board of Directors has accorded its consent for the payment/reimbursement.

Sr. No.	Name of the Director	Conveyance Rs.	Salary Rs.	Interest On	Year Ended Audited March 31, 2021	Year Ended Audited March 31, 2020
1	Smt. Y. A. Joshi		0	27,750	27750	25,000
2	Mr. Shersing P. Pawar		549,415	2,500	551915	
3	Mr. Indrajeet S Pawar		467,354		467354	
4	Mrs. Sagun S. Patil					
						25,000
	Total	0	1,016,769	30,250	1,047,019	

26. It follows from the above disclosure(s) in the audited financial statements that the Applicant has impugned salary payments holding it to be excessive merely because there is abnormal increase, however, the applicant has ignored the previous year figures reported in Note 32 of the Audited Financial Statements for the year ended 31.3.2022 wherein the details of payments made to by the corresponding amount of salaries paid to directors amount to three other directors are not reflected in Note 32 of Audited Financial Statements for the year ended 31.3.2021. If that fact is also taken into account, we do not find any abnormal increase in these payments.

27. Further, it is noted that total Employee Benefit Expenses (which presumably includes salaries paid to Director as there is no other separate head in the profit & loss account) for the year 2019-20, 2020-21 and 2021-22 were Rs. 9,08,65,903, Rs. 9,27,57,694, and Rs. 8,84,02,000. If we consider the alleged increase in director's salary also, the same does not hold good, as the revenue from operations in these years is disclosed as Rs. 43,35,39,867, Rs. 52,31,03,178 and Rs. 58,65,56,000/- in the audited financial statements.

28. Similarly, it is noted that the finance cost has decreased from Rs. 2,52,95,000 in FY 2020-21 to Rs. 2,35,78,000/- in FY 2021-22. The interest is paid on the balances of directors. The applicant has not shown that there is a bar in crediting the interest on loans from the directors. Further, the interest was paid in the preceding year as well, however, the same is not impugned.

29. Accordingly, we are of considered view that the observation of the Applicant are based on one-side appreciation of financial position and biased on account of relatedness of the payees to the corporate debtor. The allegations of the Corporate Debtor are inconsistent with the financial resulted reflected in the audited financial statements, and does not substantiate allegation of any fraud having been committed in this relation.

Missing stock amounting to Rs. 8,82,57,000/-

30. The Applicant has impugned Stock in hand amounting to Rs. 8,82,57,000/- as on 31.3.2022 in the audited financial statements for the year ended on 31.3.2022.

31. It is stated that, in the Joint Inspection Report, the operations of the Corporate Debtor had closed in or around the month of August, 2022 and on or about November 10, 2022, the work of the Corporate Debtor had come to a complete halt pursuant to which the Corporate Debtor started defaulting in its repayments. Further, a Joint Inspection Report dated March 17, 2023 conducted by State Bank of India and the Corporate

Debtor records the statement of Respondent No. 1 stating that Corporate Debtor holds stock of about Rs. 8 crores (approx.). Thereafter, A subsequent Stock & Receivables Audit Report conducted by B. Kabra & Co. through State Bank of India records the existence and availability of a Stock Statement dated May 31, 2023 the market value of which was recorded as Rs. 7 crores (approx.).

32. It is therefore submitted by the Applicant that as at or around November 2, 2023, certain stock/inventory was in fact physically present at the sites of the Corporate Debtor which was covered in carpets. However, no inventory' was found when the erstwhile IRP took the control of the Corporate Debtor and when the Applicant visited the sites of the Corporate Debtor after being appointed as RP. Accordingly, it is alleged that, sometime between May 31, 2023 (being date of Stock Statement), November 2, 2023 (being date of Stock Receivables Audit Report) and the subsequent commencement of CIRP, the said inventory of the Corporate Debtor was taken out from the premises of the Corporate Debtor. The previous management as well as the suspended management of the Corporate Debtor was asked on the issue of missing inventory vide letters dated May 31, 2025. Accordingly, the applicant has concluded that considering that all transactions of the Corporate Debtor was conducted in cash since the time that Respondent No. 1 took over the Corporate Debtor, the Applicant has substantial reasons to believe that the Respondents have engaged in fraudulent activities.

33. Joint Inspection Report dated 17.3.2023 states that "*Some stocks of finished products found in E3, Unit. Mr. Mahesh Kumar informed that value of the stocks would be around Rs.8 Crs and the same will be*

dispatched after restoration of Power supply and commencement of manufacturing activities". This indicates that the stock was lying at E-3 premises only.

34. Further, the Report dated 2.11.2023 issued by B.L. Kabra & Co. states that they carried out physical verification of inventory on 8.9.2023. It is further stated in the Report that "*We have physically verified the stocks and position of receivables on 08-09-2023. Most of the stock was covered by carpets to protect it from dust, indicating that the stock was in a non-moving/slow moving condition. Since we were not provided with the stock sheet as on the date of visit, identifying the exact level of the inventory was not practicable. However, in our professional judgement, the inventory held by the borrower was significantly lower than requirements of the facilities availed by the borrower the level of inventory was negligible*". It is also stated in the said report that "*We also observed the inward/outward registers maintained by the security personnels and noticed that except for a few entries of goods sent from one unit to another, there was no significant movement of the stock since the inception of FY 23- 24. This reaffirms that the stock is indeed slow/non-moving and raises doubt about the salability of the stock.*" Finally, the said Auditor has expressed his inability to assess the value of inventory and has assigned it at Zero as against value of Rs. 7.00 crores admitted in the stock statement as on 31.5.2023 furnished by the corporate debtor.

35. It is case of the Applicant that, upon admission of the captioned Company Petition and upon the Interim Resolution Professional having taken control and custody of the assets of the Corporate Debtor, including its

registered office and manufacturing unit, no such stock was found at the factory premises.

36. It is noteworthy that prior to admission of corporate debtor in CIRP, the State Bank of India has already taken over physical possession of Plot No. E-3 where stock worth Rs. 8 crores was estimated as per Joint Inspection Report dated 17.3.2023, and later on reported as valued at Rs. 7.00 crore in stock statement as on 31.5.2023. It is also noted that B.L. Kabra & Co has also not denied existence of the inventory and has only stated that *the inventory held by the borrower was significantly lower than requirements of the facilities availed by the borrower the level of inventory was negligible.* This observation of B L Kabra & Co is not definite as to non-existence of inventory at factory premises of the corporate debtor, and only indicates its sufficiency in related sense and is to be read in the context of outstanding fund based working capital exposure amounting to Rs. 14.42 crores as on 31.3.2023 reported in the said report.

37. It is noted that, State Bank of India vide notice dated 3.6.2024 had put the Plant & Machinery and Land for auction to realise its dues under SARFAESI Act. The said notice also declares that the State Bank of India had taken over the physical possession of both land parcels namely C-12 & E-3, where the factory of the corporate debtor was situated. It implies therefrom that the State Bank of India had taken over the physical possession of the Factory premises prior to 3.6.2024. There is nothing on record evidencing if State Bank of India had not found any inventory at E-3 while taking physical possession thereof, whereat its Joint Inspection Team had reported stock worth Rs. 8 crores lying thereat. Since, the

auditors/inspectors of State Bank of India had certified existence of certain stock available at E-3, it ought to have inventoried the said stock while taking physical possession of E-3 and initiated action for loss/embezzlement of stock at that time. There is no evidence to this effect on record.

38. It only follows from the facts placed before us that the inventory of corporate debtor was either not in existence at the time of joint inspection carried out on 15.3.2023, or significant part of such inventory vanished after 15.3.2023 till 7.9.2023 when B L Kabra had reported lesser inventory or such inventory remained in existence at E-3 at the time of taking over of physical possession by State Bank of India pursuant to section 13(4) of SARFAESI Act.

39. B L Kabra & Co in its report has stated that "*the inward/outward registers maintained by the security personnels and noticed that except for a few entries of goods sent from one unit to another, there was no significant movement of the stock since the inception of FY 23-24. This reaffirms that the stock is indeed slow/non-moving and raises doubt about the salability of the stock.*" There is no mention in the said report if their inquiry from the security personnels had revealed any unaccounted outward movement of stock. This demonstrates that the allegations of sale of stock in cash lacks substance. Further, the assumption of disappearance of inventory between the period from 16.3.2023 till 7.9.2023 is contradicted by this observation of B L Kabra & Co.

40. Further, the probable conclusion that there was no stock in existence at the time of joint inspection itself is negated by the State Bank of India'

inspector report, which is not disputed by any one, and further report of B L Kabra & Co.

41. Even if the stock holding as certified by Bank's Inspector on 17.3.2023 had declined as noticed by B L Kabra & Co on 8.9.2023, the State Bank of India had not initiated appropriate remedial action at that juncture. Thereafter also, when B L Kabra & Co had reported on 2.11.2023 that there was negligible stock as compared to the borrowings, the Bank did not get alerted.

42. The Joint Inspection report dated 17.3.2023 had certified stock worth Rs. 8.00 crores, thereafter, BL Kabra report dated 2.11.2023 had certified existence of stock, though stated to be negligible relatively to the credit exposure, and State Bank of India had taken over physical possession of Plot E-3 prior to 3.6.2024. There is no evidence placed before us disclosing non-existence of any inventory at E-3 while taking its physical possession. Accordingly, it may be probable than not that the inventories worth some amounts were lying thereat at the time of physical possession taken over by SBI. The records before us do not reveal as to when said physical possession was actually taken.

43. In view of aforesaid discussion, we are of considered view that no order qua Respondent No. 1 & 2 can be passed in these facts of the case. Further, Respondent No. 3 had resigned on 22.2.2023 prior to Joint Inspection on 15.3.2023, whereby stock of Rs. 8 crores was admitted. Hence, no order can be issued against her as well.

44. It is also noted that Respondent No. 7 was director till 25.07.2024 and other Pawar family directors, namely, Respondent No. 4,5,6 & 8 resigned

on 31.10.2023. Respondent No. 3 resigned as director from 22.2.2023. It clearly demonstrates that Respondent No. 4 to 8 were directors of Corporate Debtor at the relevant date(s). The resignation of Respondent No. 4,5,6 & 8 on 31.10.2023 immediately prior to release of Report by B L Kabra & Co on 2.11.2023 indicates that these resignation were not in usual course, but were intended to escape their accountability only. Since Respondent No. 4 to 8 were directors of Corporate Debtor at the relevant date(s), it was for them to account for the loss of said stock, if any.

45. As discussed above, the Respondent No. 4 to 8 were in control at the relevant point of time, and merely appointment of Respondent No. 1 & 2 as director as they had evinced interest in revival the corporate debtor in February, 2023 can not lead to a conclusion that the Corporate Debtor had ceased to be in control of Respondent No. 4 to 8, more so when Respondent No. 4,5,6 & 8 resigned on 31.10.2023 and Respondent No. 7 resigned on 25.7.2024 by filing his DIR-12 himself. However, in the absence of any evidence from State Bank of India that no stock was found at E-3 at the time of taking over possession, it is not possible to quantify the loss caused to the corporate debtor by non-availability of inventory at the commencement of CIRP.

46. Hence, we are of considered view that no adverse inference can be drawn even on touch stone of probability in relation to such Inventory as held by Hon'ble NCLAT in case of ***Regen Powertech Pvt Ltd vs M/s. Wind Construction Private Limited, Company Appeal (AT)(CH)(Ins) No. 349 of 2022*** that *a more compelling 'Material' / 'Evidence' is required to satisfy the conscience of this 'Tribunal', 'on a preponderance of probability'.*

Missing Cash in Hand amounting to Rs. 8,73,000/-

47. The Applicant has impugned cash in hand amounting to Rs. 8,73,000/- as on 31.3.2022 in the audited financial statements for the year ended on 31.3.2022. It is stated that neither any cash nor any records of spending the said cash has been submitted to the erstwhile IRP or to the Applicant, and no comments regarding the said cash-in-hand has been received from the Directors with suspended powers or the erstwhile directors.

48. It is noted that an application was filed by SBI on 26.03.2024, and an understanding with Respondent No. 1 and erstwhile Directors was reached in February, 2023 to acquire shares of corporate debtor, whereby the Respondent No. 1 claims to have paid an amount of Rs. 1.4 crores to the labourers and security personnel, Rs. 45 lakhs as machine maintenance charges, an amount of Rs.29.41 Lakhs for electricity dues, and Rs. 100 Lakhs for reinstallation of power supply besides EMI payment to Bank of Baroda. Respondent No. 1 & 2 were appointed as directors on 5.11.2023 i.e. after more than 19 months from the date when the stated cash in hand was available with the corporate debtor.

49. It is also noted that Respondent No. 7 was director till 25.07.2024 and other Pawar family directors, namely, Respondent No. 4,5,6 & 8 resigned on 31.10.2023. Respondent No. 3 resigned as director from 22.2.2023. Accordingly, all these Respondents were director(s) at the relevant time i.e. 31.3.2022, however, despite they being obligated to ensure maintenance of regular books of accounts of the corporate debtor till their cessation as director, they failed to maintain the same thereby failed to account for the assets available with the corporate debtor as on

31.3.2022. Indubitably, no account of this money has been provided by them.

50. Hence, we are of considered view that no adverse inference can be drawn even on touch stone of probability in relation to such cash in hand as held by Hon'ble NCLAT in case of ***Regen Powertech Pvt Ltd vs M/s. Wind Construction Private Limited, Company Appeal (AT)(CH)(Ins) No. 349 of 2022*** that *a more compelling 'Material' / 'Evidence' is required to satisfy the conscience of this 'Tribunal', 'on a preponderance of probability'*.

51. It is relevant to note that the Joint Inspection Report dated 17.3.2023 states that there is no production activities since August 2022, meaning thereby, there were some production activities from April, 2020 to July, 2022 making it probable that the cash in hand as on 31.3.2022 would have been spent during that period. However, it is noted that the Respondents No. 3 to 8 had not provided account of such cash as no books of account were made available to the Applicant for period after 1.4.2022 despite they being obligated to maintain regular books of account of corporate debtor under Companies Act, 2013.

52. Having considered the facts of the case, we are of considered view that the facts of the present case leads to an inevitable conclusion that the said cash in hand has not been accounted for, the same is required to be recovered from the Respondents, who were directors at relevant time. Accordingly, we are of considered view that Respondent No. 3 to 8 are liable to contribute, jointly or severally, a sum of 8.73 lakhs within 30 days of this order. The amount so payable shall bear an interest @ 12% p.a. on the outstanding balance, if not paid in said 30 days.

53. In view of the aforesaid discussion and analysis, IA (IBC) 3915 of 2025 is partly allowed and disposed of.

Sd/-
Prabhat Kumar
Member (Technical)

Sd/-
Sushil Mahadeorao Kochey
Member (Judicial)