NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET OF THE HEARING ON 5th AUGUST 2026

IA (IBC)/167/GB/2025
CP (IB)/28/GB/2025

Present: 1. Hon'ble Member (Judicial), Shri Rammurti Kushawaha
2. Hon'ble Member (Technical), Shri Yogendra Kumar Singh

In the Matter of	Accord India International Private Limited Vs Bagasa Plantations Pvt. Ltd.
Under Section	U/s 7 of IBC, 2016

Appearances (via video conferencing/physically)

CP (IB)/28/GB/2025

For Petitioner (s) : Mr. Joy Saha, Sr. Adv. (Accord India International Private Ltd.)
: Dr. Swati Tejawat, CA
: Ms. Urmila Chakraborty, Adv.

For Respondent (s) : Mr. Dhrupad Das, Adv. (Bagasa Plantations Pvt. Ltd.)
: Ms. Prerna, Adv.

ORDER

Order pronounced in open court *vide* separate sheets.

Sd/-
Yogendra Kumar Singh
Member (Technical)

Sd/-
Rammurti Kushawaha
Member (Judicial)

Zeba (PS)

NATIONAL COMPANY LAW TRIBUNAL

GUWAHATI BENCH

GUWAHATI

IA(IBC)/167/GB/2025
In
CP(IB)/28/GB/2025

An Application under Section 65 read with Section 75 of the Insolvency and Bankruptcy Code, 2016 and Rule 11 of the National Company Law Tribunal Rules, 2016.

In the matter of IA(IBC)/167/GB/2025:

Bagasa Plantations Private Limited, (CIN: U01132AS1984PTC002213), having its registered office at P.O Ratanpur, Dibrugarh, Assam, India – 786003;

...Applicant/ Corporate Debtor

-Versus-

Accord India International private Limited, (CIN: U74900WB2008PTC124701), having its registered Office at 224, A.J.C. Bose Road, Krishna Building, 4th Floor, Room No. 414, Kolkata, West Bengal – 700017.

...Respondent/ Financial Creditor

Coram:

Shri Rammurti Kushawaha	:	Member (Judicial)
Shri Yogendra Kumar Singh	:	Member (Technical)

Appearances (through video conferencing/physical):

For Petitioner	:	Mr. D. Das, (Adv.)
For Respondent	:	Mr. J. Saha, (Sr. Adv), Dr. S. Tejawat, CA, Ms. U. Chakraborty, (Adv.)

Order pronounced on: 05.08.2026

As Per Bench

1. The Present Interlocutory Application has been filed by Bagasa Plantations Private Limited ('Corporate Debtor') under the provisions of Section 65 read with Section 75 of the Insolvency and Bankruptcy Code, 2016 ("the Code") and Rule 11 of the National Company Law Tribunal Rules, 2016 ("NCLT Rule") seeking the following reliefs:
   a. *to impose penalty of INR 1 crore on the Financial Creditor for initiating the Corporate Insolvency Resolution Process fraudulently and with malicious intent under Section 65(1) of IBC;*
   b. *to refer the matter to Special Court as per law in terms of Section 75 of the IBC read with Section 236 of the IBC, read with Chapter XXVIII of the Companies Act, 2013;*
   c. *to initiate proceedings under Section 447 and 448 of the Companies Act, 2013 read with Section 129(1) & (7) of the Companies Act, 2013 read with Section 186(2) read with Section 186 (3);*
   d. *to dismiss the application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 by the Financial Creditor with exemplary costs; and*
   e. *Pass such other order(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice.*
2. The Briefs facts of the case as per petitioners:

   2.1 The Company Petition is filed by the Financial Creditor ('FC') under Section 7 of the Code, on the ground that the application has been initiated fraudulently and with malicious intent and not for the purpose of resolving any insolvency.

   2.2 It is further submitted that the FC, in the said Section 7 application, has deliberately furnished false information and suppressed material facts.

   2.3 The FC in the Section 7 application is seeking for the initiation of the Corporate Insolvency Resolution process ('CIRP') of the Corporate Debtor/Applicant ('CD') for the repayment of supposed 'financial debt' of INR 2,78,15,125.94/- which is inclusive of supposed 18% interest per annum compounded quarterly.

   2.4 The FC in the Section 7 application has sought initiation of the CRIP based on false and fabricated averments and gross suppression of material facts. The FC has further falsely deposed to the fact that the monies transferred to the CD by the FC is pursuant to a purported short-term loan agreement, which it was not. Further, the FC has falsely deposed to the fact that the amount of INR

74,45,000/- transferred by the CD to the FC constituted repayment of a purported loan.

2.5 The CD further submitted that the FC stated that the CD was its borrower and the FC its lender is wholly false. In fact, the parties had a joint venture/collaboration arrangement to operate and manage the CD's Koliabur Tea Estate Factory located in Silghat Main Road, PO Silghat, Koliabur, Nagaon, Assam-782143 ('Factory') and undertake allied business activities. Pursuant thereto, INR 3,34,40,750/- was credited to the CD's bank account towards tea sale proceeds, lease rentals and reimbursement of expenses incurred on behalf of the FC.

2.6 The CD and FC were engaged in discussions regarding potential collaboration for over 4 years. In 2025, the parties formalised the collaboration through three separate agreements under the Indian Contract Act, 1872, for undertaking activities relating to the cultivation, processing, manufacture, auction and sale of tea, as detailed hereinbelow:

i. The FC was to lease the Factory from the CD for a predetermined consideration linked to the quantity of tea produced;
ii. The FC was to purchase green tea leaves from the CD's Koliabur Tea Estate at market rates for processing at the Factory; and
iii. Since the FC lacked experience in operating the Factory, the CD was engaged to operate and manage it on behalf of the FC. The FC was to bear the operating expenses, for which advances were deposited with the CD and adjusted against actual expenses upon submission of vouchers.
iv. That, to give effect to the aforesaid joint collaboration, the parties created WhatsApp groups and exchanged individual WhatsApp messages and emails, which record and evidence the understanding and transactions between them, as detailed hereinbelow:
   a. *Koliabur Fasttrack Operations* (later renamed '*Koliabur MGMT*' by the FC): Complete WhatsApp chat history from 31.03.2025 to 06.08.2025, along with shared media, is annexed as *'Annexure-A1 (Colly)'.*
   b. Chat between FC's management (Sumaysh Agarwal) and CD's management (Shekib Ahmed): Complete chat history from 24.03.2021 to 31.07.2025, along with shared media, is annexed as *'Annexure-A2 (Colly)'.*

c. What's app Chat between FC's representative (Abhijeet Hazarika) and CD's management (Shekib Ahmed): Complete chat history from 03.03.2020 to 22.09.2025, along with shared media, is annexed as *'Annexure-A3 (Colly)'.*

d. Email exchanges between the FC's representatives (Aditya Hazarika, Vivek Khator and Abhijeet Hazarika) and the CD's management (Shekib Ahmed): Complete exchanges from 01.04.2025 to 28.07.2025, along with shared documents, are annexed as *'Annexure-A4 (Colly)'.*

e. Koliabur FT Functional Group (later renamed *'Koliabur Accounts'* by the FC): Complete WhatsApp chat history from 04.04.2025 to 01.08.2025, along with shared media, is annexed as *'Annexure-A5 (Colly)'.*

2.7 It is further submitted that the aforesaid WhatsApp chats and email exchanges constitute electronic records, for which Certificates of Authenticity under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 are annexed as *'Annexure-A6'* (Whatsapp Chats) and *'Annexure-A7'* (email exchanges).

2.8 Further the CD submitted that for the true nature of the transactions it is necessary to explain the correct transaction/arrangement in detail:

<u>Koliabur Tea Estate Factory was leased by the CD to FC ('Transaction No.1').</u>

i. The transaction was initially proposed through Fast Track Agro Tech LLP ('Fast Track'), a group entity of the FC, in which Mr. Sumaysh Agarwal, Director of the FC, is also a Partner. A lease term sheet was shared on 01.04.2025. Subsequently, the FC informed the CD that for internal reasons, it would itself take the Factory on lease. Accordingly, the contractual relationship between the CD and FC was that of lessor and lessee and not lender and borrower. The FC's master data and Fast Track's LLP information obtained from the MCA are annexed as *'Annexure-A8 and A9'*.

ii. Although the FC and CD had been discussing potential collaboration since 2021, negotiations for leasing the Factory commenced in March 2025 at the FC's instance. On 22.03.2025, the CD shared details of the Factory, including its capacity, machinery and tea production output, through WhatsApp.

iii. Initially, Fast Track was proposed to lease the Factory and a term sheet setting out the proposed terms was shared. However, the agreement was never executed. Subsequently, the FC offered to lease the Factory on similar terms, which was accepted by the CD and the Factory's operations were handed over to the FC. The FC duly paid the lease consideration.

iv. It is noteworthy that the lease terms were orally agreed upon and were not reduced into a formal agreement, but were recorded through the parties' WhatsApp exchanges. The agreed terms were as follows:

S. No.	Terms
1.	The Koliabur Factory would be taken on lease by FC from 01.04.2025 and agreed to pay a lease amount of INR 10/kg of produced tea.
2.	That the operations, control and management of the leased Koliabur Factory would be with the FC.
3.	The FC appointed the CD to run the Koliabur Factory on their behalf and the expenses would be borne by the FC.
4.	The FC offered to buy the Green leaves from the Koliabur Tea Estate that is the CD's tea estate to process at the Factory.
5.	That the produced tea would be then exported to RedOak's warehouse in Kolkata for auction by J Thomas & Co. Pvt. Ltd (JTT).
6.	That apart from auction the tea would be also sold through private sale.

v. Upon finalisation of the lease terms, the CD handed over the Factory to the FC on 01.04.2025, thereafter the FC assumed its control and management. Relevant extracts of the chats and emails evidencing Transaction No. 1 are annexed as *'Annexure-A10'.*

vi. The agreed lease consideration was INR 10/- per kg of tea produced. Accordingly, the CD issued Voucher No. 110 dated 30.06.2025 for INR 4,38,000/-, towards lease rent for 43,800 kg of tea produced up to 22.06.2025. The voucher was shared with the FC, following which the FC directed payment and paid the said lease rent on 01.07.2025. A copy of Voucher No. 110 is annexed as *'Annexure-A11'*.

<u>Purchase of Green Leaf by the FC for Koliabur Factory from the CD ('Transaction No. 2')</u>

i. Transaction No. 2 relates to the FC's purchase of green tea leaves from the CD's Koliabur Tea Estate for processing at the Factory. During the lease negotiations, the FC confirmed that it would procure green leaves from the CD's tea estate at prevailing market rates, based on prices fixed weekly with reference to nearby Amalgamated Plantations Private Limited ('APPL') gardens.

ii. The consideration for the green leaves was to be paid in advance and adjusted against the quantity actually purchased. A separate account was accordingly maintained for green leaf purchases from 01.04.2025.

iii. Between 01.04.2025 and 28.07.2025, the FC communicated the weekly green leaf prices and regularly obtained updates regarding the quantity procured through the 'Koliabur MGMT' WhatsApp group, which were also confirmed through email. Relevant chats and emails are annexed as *'Annexure-A12'.*

iv. The transaction was co-terminus with the Factory lease, as the Factory's operations were dependent upon the tea-growing and harvesting season. Accordingly, the FC made payments to the CD in various tranches towards the purchase of green tea leaves, as detailed in the table below.

S. No.	Tea Growing Week	Amount (INR)
1.	Week No. 15	7,23,521
2.	Week No. 16	3,04,470
3.	Week No. 17	3,46,680
4.	Week No. 18	4,54,890
5.	Week No. 19	6,61,260
6.	Week No. 20	9,85,215
7.	Week No. 21	10,50,385
8.	Week No. 22	7,29,828
9.	Week No. 23	8,17,632
10.	Week No. 24	5,69,534
11.	Week No. 25	8,62,618
12.	Week No. 26	9,46,148
13.	Week No. 27	11,61,972
14.	Week No. 28	15,08,609
15.	Week No. 29	12,42,513
16.	Week No. 30	12,30,925
Total		1,35,96,200

A copy of the table is annexed as *'Annexure A13'.*

<u>Control and Management of the Factory was taken over by the FC and expenses was paid by the FC towards running of the Factory by the CD ('Transaction No. 3')</u>

i. Transaction No. 3 was connected with Transaction No. 1. Upon taking the Factory on lease, the FC assumed its control and management but, lacking the requisite experience and manpower to operate a tea factory, engaged the CD to manage and operate the Factory on its behalf.

ii. Accordingly, the FC agreed to bear all operational expenses and costs, in addition to the lease rent. The CD raised vouchers for such expenses, against which the FC made advance payments subject to adjustment, while certain expenses, such as labour wages, were paid as and when vouchers were raised.

iii. Prior to commencement of operations, the FC sought details of the estimated operational costs, including labour wages, staff, electricity, coal, firewood and other day-to-day expenses. The FC thereafter requested the CD to operate the Factory in accordance with its directions and agreed to bear all expenses incurred in doing so.

iv. The FC further requested the CD to furnish an estimated operational budget and details of the proposed utilisation of advances towards Factory expenses.

v. To give effect to Transaction No. 3, the parties created various WhatsApp groups through which the FC regularly coordinated with the CD, issued day-to-day directions and sought operational reports regarding the Factory, including:

   a. reports/ information regarding the quantity of green leaves received at the Factory;
   b. directions regarding the manufacturing process of tea, including withering, rolling, oxidizing, drying and grading;
   c. directions regarding the manner in which sampling was be carried out;
   d. directions regarding the processes relating to packaging and the identification of suppliers of packaging materials;
   e. prescribing format for reporting the Factory's daily output, vouchers and related operational information;
   f. the modalities for effecting sales;
   g. the formulation of strategies for future growth and expansion, amongst others.

vi. The ‘Koliabur FT Functional Group’, later renamed ‘Koliabur Accounts’, was also used to discuss Factory expenses payable by the FC, amount towards green leaf purchases, inventory finance and sale of tea in Kolkata Auction by JT, and other operational, transportation and sales-related transactions.

vii. The FC further conducted weekly meetings with the CD and Factory workers to review production, assess the quantity and quality of tea, improve productivity and address operational issues. Relevant chats and emails are annexed as *'Annexure-A14'.*

viii. Upon handover of the Factory, the FC paid INR 80,00,000/- on 02.04.2025 towards Factory expenses and advance payment for green leaves. From 07.04.2025 onwards, the CD issued vouchers along with supporting bills for expenses incurred, which were forwarded to the FC's accounts team. The payments made by the FC against such vouchers are detailed below:

S. No.	Week No.	Amount
1	Week No. 14	69,112
2	Week No. 15	2,73,680
3	Week No. 16	1,52,658
4	Week No. 17	1,36,686
5	Week No. 18	2,36,329
6	Week No. 19	6,69,722
7	Week No. 20	10,71,648
8	Week No. 21	11,62,135
9	Week No. 22	8,52,513
10	Week No. 23	3,74,896
11	Week No. 24	5,83,901
12	Week No. 25	2,36,010
13	Week No. 26	2,53,043
14	Week No. 27	3,00,914
15	Week No. 28	9,20,462
16	Week No. 29	2,59,047
17	Week No. 30	2,24,090
Total		77,76,846

A detailed tabulation of all vouchers shared by the CD with the FC from 07.04.2025 to 28.07.2025 is annexed as *'Annexure–A15'*.

ix. Thus, the aforesaid documents, facts and circumstances establish that the transactions were operational and commercial in nature, relating to reimbursement and adjustment of expenses incurred during business operations and involved no disbursal against the time value of money.

x. Further, apart from advances towards green leaf purchases, the FC advanced INR 1,16,29,704/- towards the aforesaid transactions. However, upon the FC's abandonment of the Factory without prior notice, the CD adjusted the said advances against expenses and losses, including balance lease rent, electricity charges, GST, TDS and other post-abandonment losses, amounting to INR 31,68,929/-. A detailed tabulation is annexed as *'Annexure-A16'.*

xi. Accordingly, the aggregate amount of INR 3,34,40,750/-, alleged by the FC to be a loan, was in fact transferred pursuant to the aforesaid commercial transactions and does not constitute a loan or financial debt. A consolidated tabulation is set out below for ease of reference:

Total Amount Received from FC

S. No.	Deposited under	Aggregate Amount (INR)
1.	Transaction No. 1	4,38,000
2.	Transaction No. 2	1,35,96,200
3.	Transaction No. 3	77,76,846
4.	Advances Adjusted post abandonment of factory	1,16,29,704
Total		3,34,40,750

2.9 The FC had submitted that the FC on oath that the CD 'repaid' INR 74,45,000/- towards the alleged loan of INR 3,34,50,750/- is wholly false and misleading. The said amount was not repayment of any loan, but constituted payment pursuant to a separate arrangement between the parties, as evidenced by the relevant WhatsApp chats and emails. The actual purpose of the said payment is set out hereinbelow:

a. The tea produced at the Factory was sold through two channels (i) auction through JT; and (ii) private sale to the FC's sister concern, Fast Track.

b. JT, a licensed tea auctioneer and broker, facilitated the auction sale of tea produced at the Factory and remitted advances against tea stock and sale proceeds, after deducting amounts due under the credit line extended to the CD. JT had no financial or contractual relationship with the FC.

c. Upon receiving the aforesaid advances and sale proceeds from JT, the CD remitted the corresponding amounts to the FC. Such remittances were not repayment of any loan, but represented transfer of tea inventory proceeds and sale proceeds generated from the Factory operations conducted for the FC.

d. The aforesaid transactions are evidenced by WhatsApp communications in the '*Koliabur MGMT*' and '*Koliabur Accounts*' groups. Relevant chats and emails are annexed as *'Annexure-A17'*.

e. Thus, the FC's payments to the CD were towards lease rent, green leaf purchases and Factory operating expenses, whereas the CD's payments to the FC represented advances and sale proceeds received from JT against tea stock sold through auction. Accordingly, the transactions were purely commercial and operational in nature and did not create any lender-borrower relationship or financial debt. The relevant bank transfers between the FC and CD are annexed as *'Annexure-A18'*.

2.10 Further submitted that the List of Dates attached along with the Section 7 application itself is demonstrably false, as can be evident from the following:

a. The FC's statement that on 22.03.2025, the CD approached it for "short-term financial accommodation" is false. The WhatsApp chats and emails, particularly *'Annexure-A2'*, establish that it was the FC's management, through Mr. Sumaysh Agarwal, that approached the CD for taking the Factory on lease.

b. Alleged disbursement of INR 3,34,50,750/-: The FC has wrongly characterised the payments made between 02.04.2025 and 07.08.2025 under the commercial transactions as 'disbursements'. The payments were towards lease rent, green leaf purchases and Factory operating expenses and were not disbursed as 'financial debt' against the time value of money. There was no lender-borrower relationship between the parties.

c. Alleged part-payment of INR 74,45,000/-, the FC has falsely portrayed the remittances made between 25.05.2025 and 29.07.2025 as repayment of a loan. As evidenced by *'Annexure-A17'*, the said amount represented tea auction advances and sale proceeds received through JT and subsequently remitted by the CD to the FC pursuant to the parties' commercial arrangement.

d. On 20.09.2025, the alleged Demand Notice for INR 2,78,15,125.94/- is false, baseless and denied. The CD specifically denies receipt of the notice at any of its stated email addresses and the FC is put to strict proof of valid service. Further, the alleged electronic record/printout has not been supported by the requisite certificate or particulars under Section 63(4) of the Bharatiya Sakshya Adhiniyam, 2023, including details of the computer/device, its regular use and lawful control.

e. The FC's assertion that 20.09.2025 constitutes the date of default is wholly untenable. Since no "debt" within the meaning of Section 3(11) of the IBC exists between the parties, there can be no "default" under Section 3(12), and consequently no valid date of default can arise.

2.11 A bare perusal of the aforesaid paragraphs establishes that the FC has furnished false information and suppressed material facts in its Section 7 Application, including the true nature of the transactions and the complete WhatsApp and email communications evidencing that no financial debt or borrowing existed. Despite being aware of the materiality of such records, the FC deliberately withheld them with an intent to fraudulently and maliciously initiate CIRP against the CD, thereby attracting the consequences under Sections 65(1) and 75 of the Code. The Section 7 Application is consequently a gross abuse of the process of this Hon'ble Tribunal and deserves dismissal with exemplary costs

2.12 The Affidavit Verifying Petition filed by Mr. Sumaysh Agarwal further aggravates the matter. Having stated that the Section 7 Application was prepared under his instructions and that its contents were true and correct with nothing material concealed, the Deponent cannot dispute responsibility for the material suppressions and misstatements demonstrated hereinabove. He was aware of the commercial nature of the transactions and the absence of any disbursement against the time value of money. His verification is therefore demonstrably false, rendering him liable, along with the FC's management, for the consequences contemplated under Sections 65 and 75 of the Code.

2.13 It is respectfully submitted that proceedings under Section 7 of the Code are not a mere recovery mechanism but constitute a serious and coercive process which may culminate in resolution or liquidation of the CD. The FC's wrongful portrayal of the CD as a defaulter has caused serious prejudice to its management and reputation. The CD, incorporated in 1984 and having an established presence in the tea industry, has been adversely affected by such false allegations.

2.14 Every applicant approaching this Hon'ble Tribunal is required to do so with utmost good faith and clean hands. Section 65 of the Code penalises fraudulent or malicious initiation of insolvency proceedings, while Section 75 penalises furnishing false information in an application by a financial creditor. Read with Rule 11 of the NCLT Rules, Section 236 of the Code and the relevant provisions of the Companies Act, 2013, these provisions safeguard the insolvency process against abuse. Accordingly, the present Section 7 Application, being founded upon falsehood, suppression and mala fide intent, deserves dismissal with exemplary costs and appropriate action under the aforesaid penal provisions.

3. On the other hand, the Respondent/Financial Creditor submitted:
   3.1 The Financial Creditor submitted that CD has failed to disclose any ground to resist passing of an order of admission, it is evident that the corporate debtor has admitted the financial debt and default committed by the corporate debtor in respect thereto.
   3.2 The corporate debtor has attempted to mislead and misrepresent as to true and real nature of the loan transaction by following ways:
      a. The corporate debtor admits to the existence of an agreement between the Fast Track Agro Tech LLP on one hand and the corporate debtor on the other hand for lease of the Koliabur T.E. factory.
      b. The corporate debtor further admits to the existence of a term sheet containing the terms of the agreement between the Fast Track Agro Tech LLP and the corporate debtor. The agreement with the Fast Track Agro Tech LLP was not executed and on the contrary the FC offered to take factory on lease.
      c. The said allegation is ex-facie, sham and absurd, make belief and liable to be rejected in that one Mr. Aditya Hazarika being the son of Abhijeet Hazarika is a designated partner of the Fast Track LLP and is the person in the management and control of the said LLP.
      d. The CD has annexed WhatsApp chats and messages most of which are between the said Abhijeet Hazarika on behalf of Fast Track and Shekib Ahmed, representing the corporate debtor which Cleary demonstrate that it is Fast Track and not the FC had an agreement with CD to run the factory at Koliabur Tea Estate.
      e. There is no document or letter correspondence or even WhatsApp messages showing the existence of any letters or other arrangement between the financial creditor on one hand and the corporate debtor on the other hand to run the tea factory of the corporate debtor.
      f. The Allegation that there was an agreement between the financial creditor and the corporate debtor to run the said tea factory is absurd and must be disbelieved in that:-
         - There is no such agreement in writing.

- There are no such correspondences evidencing agreement in writing.
- There is no terms and conditions by and between the financial creditor and the corporate debtor to run, manage and control the said factory.
- Neither the financial creditor nor any of its men, servants, agents or nominees were ever nominated to the Board of Directors of the corporate debtor or as employees of the corporate debtor.
- No bank account of the CD was ever operated by the FC or its men, servants, agents or nominees.
- No purchase orders were issued or materials or correspondences were sourced or purchased or payment of wages and other statutory outgoings or any other payments whatsoever were made by the financial creditor on behalf of the corporate debtor or were made in the name of the financial creditor.
- No invoices, bills or challans were raised or generated in the name of the financial creditor.

g. Further, submitted that there is no document whatsoever to show that the Financial Creditor was ever in the management or control of the Corporate Debtor. Fast Track LLP and Accord India International Private Limited are separate and independent entities.

h. Further, there is no Board Resolution, shareholders' resolution, or any other record evidencing that the Financial Creditor ever took over, or that the Corporate Debtor ever handed over, the management and control of the tea factory.

i. It is undisputed from the statements of account of both the Financial Creditor and the Corporate Debtor that the Financial Creditor paid a total sum of Rs. 3,34,50,750/- to the Corporate Debtor between 02.04.2025 and 07.08.2025. The said amount, as reflected in the books of the Corporate Debtor, constitutes a debt allegedly payable to the Financial Creditor.

j. Out of the said amount, the Corporate Debtor has repaid only Rs.74,45,000/-, leaving an alleged outstanding principal of Rs. 2,60,05,750/-. As there is no evidence of repayment of the balance amount by the CD, hence the Corporate Debtor is in default and is liable to be admitted into insolvency.

k. The Corporate Debtor has expressly admitted the existence of a line of credit extended by the Financial Creditor. The CD unequivocally acknowledge that the Financial Creditor had extended a credit facility to the Corporate Debtor, pursuant to which a total sum of Rs. 3,34,50,750/- was disbursed from time to time in accordance with the Corporate Debtor's business requirements and exigencies.

l. Further submitted that the Corporate Debtor has also admitted that it paid a sum of Rs. 74,45,000/- to the Financial Creditor. Such admitted payment completely demolishes the Corporate Debtor's defence that the amounts disbursed were towards a lease arrangement, operational expenses or management of the tea factory. Had the Financial Creditor taken the factory on lease or made payments for operating the factory, there would have been no occasion for the Corporate Debtor to repay any part of the amount to the Financial Creditor. The admitted part repayment, therefore, conclusively establishes that the amounts were advanced under a financial arrangement, thereby affirming the existence of a financial debt and the Corporate Debtor's liability thereunder.

m. The FC submitted that the Corporate Debtor has further admitted payment of Rs. 74,45,000/-, thereby leaving an admitted outstanding principal of Rs. 2,60,05,750/-, which is well above the minimum threshold prescribed under Section 4 of the Code.

n. The FC further submitted that the Corporate Debtor's contention that the transaction pertained to goods or services is wholly untenable, as there is no purchase order, sale invoice, bill, challan or any other commercial document evidencing any sale of goods or rendering of services by the Corporate Debtor to the Financial Creditor. The said defence is therefore unsupported by any contemporaneous record and deserves to be rejected.

o. Despite receipt of the demand notice dated 20.09.2025, the Corporate Debtor failed to issue any reply disputing either the debt or the default. The absence of any response constitutes a clear admission of the liability and default.

p. The FC further submitted that the money suit instituted by the Corporate Debtor is a clear afterthought and a counterblast to the present insolvency proceedings, having been filed only after the institution of the Section 7 application. In any event, it is trite in law that pendency of a suit is not a bar for admission of a proceeding under Section 7 of Code.

3.3 The FC submitted that the financial debt has not been disputed by the corporate debtor and thus, the same is uncontroverted and admitted. The financial debt has fallen due upon demand being made by the financial creditor. The allegations that the Section 7 Petition is misleading, not maintainable, liable to be dismissed or has been filed by suppressing material facts, committing fraud or abusing the process of law are wholly false, baseless and unsupported by any evidence.

3.4 The FC further submitted that the Financial Creditor is a 'Financial Creditor' within the meaning of Section 5(7) of the Code and the amounts advanced constitute a 'financial debt' under Section 5(8) of the Code, being money disbursed against consideration for the time value of money. The Corporate Debtor itself has made part payment leaving an outstanding principal of Rs. 2,60,05,750/- payable with interest @18% per annum on quarterly compound basis. It is clearly evident the existence of the financial debt. The utilisation of the loan amount by the Corporate Debtor for its own business or operational requirements cannot alter the legal character of the transaction or convert the financial debt into an operational transaction.

3.5 The FC submitted that the Corporate Debtor has deliberately attempted to mischaracterise the admitted loan transaction by alleging that the payments were towards lease rentals, purchase of green tea leaves, reimbursement of operational expenses, or pursuant to a joint venture or collaboration. Such allegations are entirely unsupported by any lease agreement, purchase order, invoice, bill, challan, voucher or any other contemporaneous document. The Financial Creditor never agreed to lease the tea factory, purchase green tea leaves, manage or operate the factory, bear operational expenses or enter into any joint venture or collaboration with the Corporate Debtor. The entire defence is an afterthought intended solely to avoid repayment of the admitted financial debt.

3.6 The FC further submitted that the Corporate Debtor has intentionally attempted to confuse the independent legal identity of Fast Track Agro Tech LLP with that of the Financial Creditor merely because both entities have a common director, Mr. Sumaysh Agarwal. Any discussions, negotiations or proposed arrangements regarding leasing of the factory were exclusively between the Corporate Debtor and Fast Track Agro Tech LLP and have no nexus whatsoever with the Financial Creditor. Similarly, the WhatsApp groups, chats and email communications relied upon by the Corporate Debtor pertain to Fast Track Agro Tech LLP and not to the Financial Creditor. Mr. Abhijeet Hazarika were neither directors nor authorised representatives of the Financial Creditor and therefore their communications cannot be attributed to the Financial Creditor or relied upon to establish any contractual or operational relationship between the parties.

3.7 The FC submitted that the allegations that the transaction was not a financial borrowing, that the Financial Creditor acted fraudulently or maliciously, suppressed material facts, misrepresented the nature of the transaction, committed perjury, abused the insolvency process or rendered itself liable under Sections 65 or 75 of the Code are categorically denied. The FC submitted that the WhatsApp chats and email communications relied upon by the Corporate Debtor neither establish the alleged nature of the transaction nor satisfy the statutory requirements of admissibility and therefore cannot displace the admitted financial debt.

3.8 The FC further submitted that the Corporate Debtor has deliberately attempted to confuse the transactions between the Corporate Debtor and Fast Track Agro Tech LLP with the independent financial transaction between the Corporate Debtor and the Financial Creditor. The Affidavit itself admits that the proposed term sheet and lease arrangement related exclusively to Fast Track Agro Tech LLP and not to the Financial Creditor. Fast Track Agro Tech LLP and the Financial Creditor are separate and independent legal entities and merely sharing a common director does not create any contractual or legal relationship between the Financial Creditor and the Corporate Debtor. Consequently, all allegations concerning Fast Track Agro Tech LLP are wholly irrelevant for adjudication of the present Section 7 proceedings.

3.9 The FC submitted that there is no lease agreement, oral or written understanding, Board Resolution, shareholders' resolution or any contemporaneous document to establish that the Financial Creditor ever agreed to take the Koliabur Tea Factory on lease, assume its management or control, appoint the Corporate Debtor to operate the factory on its behalf, bear operational expenses, procure green tea leaves or undertake any commercial operations of the Corporate

Debtor. The allegations of an oral lease arrangement are inherently improbable and constitute a fabricated narrative devised solely to disguise the admitted financial transaction.

3.10 The FC further submitted that the WhatsApp groups, chats, emails and vouchers relied upon by the Corporate Debtor do not implicate the Financial Creditor in any manner. The 'Koliabur Accounts' WhatsApp Group was created by representatives of Fast Track Agro Tech LLP, while the 'Koliabur MGMT' group was created by the Corporate Debtor itself. The persons relied upon by the Corporate Debtor, including Mr. Abhijeet Hazarika and Mr. Vivek Khator, were neither directors nor authorised representatives of the Financial Creditor and their communications cannot be attributed to the Financial Creditor. The Financial Creditor further clarified that the WhatsApp communications annexed to the Petition were relied upon only to demonstrate the Corporate Debtor's acknowledgment of its financial liability and not to establish any operational arrangement.

3.11 The FC submitted that the Corporate Debtor has failed to produce a single purchase order, sale invoice, tax invoice, bill, challan, delivery record or any other commercial document evidencing that the Financial Creditor purchased green tea leaves, paid consideration for goods or services or entered into any commercial arrangement with the Corporate Debtor. On the contrary, the Corporate Debtor has admitted receipt of the monies advanced by the Financial Creditor and has merely attempted to assign a different colour to the admitted loan transaction. The entire defence is therefore unsupported by documentary evidence, contrary to the admitted facts on record and liable to be rejected.

3.12 The FC submitted that the Corporate Debtor's allegations that the Financial Creditor took over the management, control or operations of the Koliabur Tea Factory, appointed the Corporate Debtor to run the factory on its behalf, agreed to bear operational expenses, lease rentals, labour costs, electricity charges or other day-to-day expenses are wholly false and unsupported by any contemporaneous record. The Financial Creditor never sought operational reports, budgets, production details, labour information or factory accounts, nor did it issue any directions concerning the management or functioning of the factory. The monies advanced were purely financial accommodations extended to the Corporate Debtor, and the manner in which such funds were utilised by the Corporate Debtor does not alter the nature of the transaction as a financial debt.

3.13 The FC further submitted that the Corporate Debtor has failed to produce any lease agreement, purchase order, invoice, bill, voucher, challan or any other documentary evidence establishing that the Financial Creditor agreed to purchase green tea leaves, reimburse operational expenses, acquire the factory on lease or undertake any operational or commercial obligations. The alleged WhatsApp groups, emails, vouchers and annexures relied upon by the Corporate Debtor neither establish such arrangements nor create any contractual liability on the Financial Creditor. On the contrary, the Corporate Debtor has merely attempted to assign a different colour to the admitted loan transaction without any supporting documentary evidence.

3.14 The FC submitted that the transaction between the parties was exclusively one of financial lending and the amounts disbursed by the Financial Creditor constituted financial debt within the meaning of Section 5(8) of the Code. The Corporate Debtor's attempt to characterise the disbursements as reimbursement of expenses, advances towards purchase of green tea leaves, stock advances, sale proceeds, lease rentals or operational payments is wholly misconceived and contrary to its own admissions regarding receipt of the funds and part repayment thereof. The Financial Creditor never abandoned the factory, caused operational losses or became liable for any alleged statutory dues, operational expenses or business losses of the Corporate Debtor.

3.15 The FC further submitted that the allegations relating to JT Tea, reconciliation of accounts, factory operations, production, alleged delays in release of funds, operational constraints, breach of contract, abandonment of the factory and consequential losses are entirely irrelevant to the present proceedings. There was never any arrangement under which the Financial Creditor was required to operate, supervise or manage the tea factory or monitor its commercial affairs. Consequently, all allegations seeking to attribute operational failures or losses to the Financial Creditor are baseless and liable to be rejected.

3.16 The FC submitted that the Corporate Debtor's alleged counterclaim is wholly untenable and cannot be adjudicated in proceedings under Section 7 of the Code.

The allegations regarding disruption of factory operations, under-utilisation of capacity, loss of goodwill, damage to business reputation, failure to procure green tea leaves, increased operational costs and the purported claim of Rs. 5,05,62,000/- are unsupported by any contractual or documentary evidence and have no nexus with the admitted loan transaction. In any event, the Code does not contemplate adjudication of such counterclaims in a Section 7 proceeding, which is confined to determining the existence of financial debt and default.

3.17 The FC submitted that the alleged disputes, counterclaims and the Money Suit instituted by the Corporate Debtor do not affect the maintainability of the present application under Section 7 of the Code. The purported Money Suit is a clear afterthought, having been instituted only after filing of the present Section 7 application and has been filed solely to delay and frustrate the insolvency proceedings. In any event, it is well settled that the pendency of a civil suit or an alleged counterclaim is neither a bar to nor a relevant consideration for admission of a petition under Section 7, where the existence of financial debt and default stands established.

3.18 The FC further submitted that the Corporate Debtor has failed to raise any genuine or bona fide dispute regarding the financial debt or default. The allegations that the transaction pertained to a lease, supply of goods or services, joint venture, operational arrangement, or any other commercial relationship are wholly unsupported by documentary evidence and are contrary to the Corporate Debtor's own admissions regarding receipt of the loan amount and part repayment thereof. The allegations of set-off, damages, compensation, loss of goodwill, operational losses, or any liability of the Financial Creditor are equally baseless and fall wholly outside the scope of adjudication under Section 7 of the Code.

3.19 The FC submitted that the allegations that the petition suffers from technical defects, is unsupported by mandatory documents, suppresses material facts, misstates the nature of the transaction or is liable to be dismissed are wholly misconceived. There is no statutory requirement under the Code that a financial debt must necessarily be evidenced by a written loan agreement or financial contract. The Financial Creditor is entitled to establish the existence of the financial debt from the surrounding circumstances, bank transactions, ledger accounts, admissions of the Corporate Debtor and other contemporaneous material placed on record.

3.20 The FC finally submitted that the Corporate Debtor has failed to substantiate its version of the alleged 'real transaction' by any contemporaneous documentary evidence, whereas the Financial Creditor has established the financial debt and default through bank records, ledger accounts, admissions contained in the Reply Affidavit and authenticated electronic records, including the WhatsApp communications. Accordingly, the allegations of fraud, suppression of material facts, abuse of process and liability under Sections 65 and 75 of the Code are wholly untenable and the present petition deserves to be admitted with consequential declaration of moratorium.

3.21 The FC submitted that the present application fully satisfies the requirements of Sections 5(7), 5(8) and 7 of the Code and is maintainable in law. The allegations that no financial debt exists, that there was no borrowing or disbursement, that the transaction was not an Inter-Corporate Deposit (ICD) or loan, that the advances were not towards goods, services or any other commercial arrangement, or that the Financial Creditor was not authorised to extend the credit facility are wholly false and contrary to the admitted conduct of the parties. The disbursement of funds, the Corporate Debtor's acknowledgements, the ledger accounts and the admitted part repayment unequivocally establish the relationship of lender and borrower and the existence of a financial debt.

3.22 The FC further submitted that the Corporate Debtor's allegations that the Financial Creditor breached any contractual obligation, caused operational losses, is liable for damages or that no amount remains due are wholly unsupported by any contemporaneous evidence. Equally untenable are the allegations that the entries relating to the loan or interest in the ledger accounts are fabricated or misleading or that the Financial Creditor has inflated its claim. The absence of a written loan agreement or financial contract does not negate the existence of the financial debt, which stands established from the contemporaneous documentary evidence, admissions of the Corporate Debtor and the conduct of the parties.

3.23 The FC finally submitted that the demand notice dated 20.09.2025 was duly served upon the Corporate Debtor through its registered email address as well as by Speed Post and the Financial Creditor has produced certificates of authenticity under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 together with proof of service. The allegations that the demand notice, electronic records, WhatsApp communications, date of default or supporting documents are fabricated, inadmissible or incapable of establishing the financial debt are wholly baseless. The Financial Creditor has conclusively established the existence of a financial debt and the occurrence of default, and accordingly, the present Section 7 application deserves to be admitted.

4. Additional submission on behalf of Applicant/Corporate Debtor *vide* Rejoinder dated 26.02.2026.

4.1 The Corporate Debtor submitted that to demonstrate that the Financial Creditor's own pleadings contain material admissions establishing that it has approached this Learned Tribunal with unclean hands, abused the process of law and made false statements on oath.

4.2 The Corporate Debtor further submitted that the Financial Creditor has failed to specifically deny or rebut the nineteen false statements identified in the present Interlocutory Application and tabulated in *Annexure A-19*. Instead of furnishing a paragraph-wise response or documentary refutation, the Financial Creditor has made only a bald and omnibus denial while selectively interpreting the Corporate Debtor’s pleadings. Such failure to deal with the specific allegations warrants an adverse inference and supports the admission of the present Interlocutory Application.

4.3 The Financial Creditor’s own pleadings in the Section 7 Petition contain clear admissions that are inconsistent with and contrary to, the stand now taken in its Reply to the present Interlocutory Application. These material contradictions demonstrate misrepresentation on the part of the Financial Creditor and are evident from the admissions contained in its own pleadings, which are set out hereunder.

4.4 The Financial Creditor’s Section 7 Petition is founded on alleged WhatsApp communications purportedly exchanged between the authorised representatives of the parties, as specifically pleaded on oath and supported by *Annexure A-7*. However, *Annexure A-7* contains only selective screenshots showing messages sent by the Corporate Debtor’s representative, while deliberately concealing the identity of the recipient. By withholding this material information, the Financial Creditor sought to create the impression that the communications were exchanged with its own authorised representative, despite not disclosing who the recipient actually was.

4.5 The complete WhatsApp chats placed on record conclusively establish that the recipient of the messages relied upon by the Financial Creditor was Mr. Abhijeet Hazarika. While the Financial Creditor's Section 7 Petition implicitly projected these communications as having been exchanged with its authorised representative, it has, in its Reply to the present Interlocutory Application, expressly disowned Mr. Abhijeet Hazarika as its representative, asserting that he was acting on behalf of a separate entity and that his chats cannot be attributed to the Financial Creditor. This contradictory stand demonstrates that the Financial Creditor's own pleadings are mutually inconsistent and raises serious questions regarding the truthfulness of the averments made on oath in the Section 7 Petition.

4.6 The Corporate Debtor further submitted that having expressly disowned Mr. Abhijeet Hazarika as its authorised representative, the Financial Creditor cannot rely upon WhatsApp communications exchanged with him as communications with its authorised representative to found its claim under Section 7 of the IBC. This contradictory stand undermines the very basis of the Section 7 Petition. Further, the Financial Creditor itself asserts the necessity of documentary evidence to establish commercial transactions, yet has failed to produce any loan agreement, sanction letter, promissory note, repayment schedule or any other document evidencing a borrower-lender relationship or a financial debt. Such mutually inconsistent pleadings disentitle the Financial Creditor from maintaining its claim and support the Corporate Debtor's challenge to the maintainability of the Section 7 Petition.

4.7 The Corporate Debtor submitted that the alleged claim does not constitute a 'financial debt' under Section 5(8) of the Code and that the Financial Creditor has failed to produce any loan agreement or other contemporaneous document evidencing a borrower-lender relationship. The Corporate Debtor further submitted that the documents relied upon by the Financial Creditor have been misconstrued, as the term sheet exchanged with Fast Track Agro Tech LLP was merely a negotiation document and never crystallised into an executed agreement. It is further contended that the Financial Creditor's Reply consists largely of vague assertions and bald denials, without specifically addressing the material pleadings and documentary evidence placed on record.

4.8 The Corporate Debtor further relies upon the complete WhatsApp chats, email communications, vouchers and other contemporaneous records to contend that the Financial Creditor has selectively relied upon isolated extracts while suppressing material communications, thereby misrepresenting the true nature of the transactions between the parties. It is reiterated that the Financial Creditor has taken contradictory stands regarding the status of Mr. Abhijeet Hazarika, disowned him in the present proceedings while relying upon communications involving him in the Section 7 Petition and has adopted inconsistent positions regarding the requirement of documentary proof and board approvals. Such mutually destructive pleadings, coupled with the absence of statutory authorisation for the alleged inter-corporate deposit, demonstrate suppression of material facts and render the Financial Creditor's case unsustainable in law.

4.9 The Corporate Debtor further submitted that mere transfer of funds does not, by itself, constitute a 'financial debt' under the IBC in the absence of a legally enforceable lender-borrower relationship or lending terms. The Corporate Debtor further submits that the Financial Creditor has repeatedly misread and distorted its pleadings by falsely alleging admissions regarding a loan, credit facility, or outstanding debt, whereas the contemporaneous WhatsApp communications, email exchanges, vouchers and other documents demonstrate that the transactions arose from a commercial arrangement relating to the operation of the Koliabur Factory and not from any loan transaction.

4.10 The Corporate Debtor further submitted that the Financial Creditor has failed to produce contemporaneous documents supporting its changing versions of the transaction, has adopted mutually inconsistent stands regarding the nature of the payments and has selectively relied upon documents while suppressing material records. It also disputes the alleged service of the demand notice, questions the authenticity of the postal records subsequently produced and denies the genuineness of the ledger relied upon by the Financial Creditor. The disputes between the parties involve complex and contested questions of fact requiring adjudication through a regular trial and are therefore not amenable to summary jurisdiction under Section 7 of the Insolvency and Bankruptcy Code, 2016.

4.11 The Corporate Debtor further disputes the authenticity of the screenshots relied upon by the Financial Creditor, alleging that they are forged and fabricated, while asserting that it has placed the complete contemporaneous correspondence and relevant documents on record, thereby presenting the true nature of the transactions between the parties. It is also reiterated that the Financial Creditor has failed to specifically traverse or explain the nineteen false statements identified in *Annexure A-19*. Accordingly, the Corporate Debtor prays that the present Interlocutory Application be allowed and the Financial Creditor's Section 7 Petition be dismissed with exemplary costs.

<u>Findings and Analysis</u>

5. The present Interlocutory Application has been preferred by the Applicant/Corporate Debtor under Section 65 read with Section 75 of the Code and Rule 11 of the NCLT Rules, 2016 seeking dismissal of the Company Petition bearing CP(IB)/ 28/ GB/2025 filed under Section 7 of the Code by the Accord India International private Limited
6. It is the case that the Section 7 petition has been maliciously instituted solely on the basis of commercial business arrangement as a financial debt with a view to invoke the provisions of Section 7 of the Code as there is no loan agreement, sanction letter, promissory note, repayment schedule, acknowledgment of debt or any contemptuous document showing a borrower-lender relationship. There is also no what's app chat or email recording any lending arrangement. It is submitted that the complete WhatsApp and email communications placed on record by the CD clearly show the true arrangement between the parties i.e., (i) lease of the Koliabur Factory by the CD to the FC; (ii) purchase of green tea leaves by the FC from the CD for processing at the Koliabur Factory; (III) payment of operational expenses by the FC towards running of the factory and (iv) remittances by the CD to the FC out of sale proceeds / advances received through J. Thomas & Co. Pvt. Ltd. ('JT'), which the FC has falsely portrayed as repayment of debt
7. On the other hand, the Financial Creditor has categorically denied the existence of any commercial collaboration with it. According to the Financial Creditor, the proposed arrangement regarding leasing of the tea factory was exclusively between the

Corporate Debtor and Fast Track Agro Tech LLP, which is a distinct legal entity. It is contended that no agreement, oral or written, ever came into existence between the Financial Creditor and the Corporate Debtor regarding leasing of the factory, purchase of green leaves or management of factory operations. The Financial Creditor asserts that the amounts advanced by it were purely financial accommodations extended to the Corporate Debtor and that the admitted repayment of Rs.74,45,000/- clearly establishes the lender-borrower relationship.

8. Thus, the controversy between the parties fundamentally relates to the true character of the transactions. While the Corporate Debtor asserts that the transactions are commercial in nature, the Financial Creditor maintains that they constitute financial debt within the meaning of Section 5(8) of the Code. It is therefore evident that the very foundation of the Company Petition under Section 7 is itself a matter of adjudication in the main Company Petition.

9. At this stage it would be necessary to refer to Section 65 of the Code which is reproduced herein below: -

> ***"Section 65: Fraudulent or malicious initiation of proceedings.***
>
> *65. (1) If, any person initiates the insolvency resolution process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, as the case may be, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.*
>
> *(2) If, any person initiates voluntary liquidation proceedings with the intent to defraud any person, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees but may extend to one crore rupees.*
>
> *(3) If any person initiates the pre-packaged insolvency resolution process-*
>
> *(a) fraudulently or with malicious intent for any purpose other than for the resolution of insolvency; or*
>
> *(b) with the intent to defraud any person,*
>
> *the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees."*

10. The legislative object behind Section 65 is to prevent abuse of the insolvency process. The provision is penal in nature and, therefore, cannot be invoked routinely. The

jurisdiction under Section 65 is attracted only where there exists cogent material demonstrating that the proceedings have been initiated fraudulently or with malicious intent for a purpose other than the objectives of the Code.

11. The Hon'ble NCLAT in the case of ***Canara Bank Vs. Bhavesh Mansukhbai Rathod (IRP) and Ors. Company Appeal (AT) (Insolvency) No. 558 of 2025*** in the judgement dated 17.04.2026 has observed that proceeding under Section 65 application has to be based on specific pleadings and materials to show that initiation of CIRP was malicious and fraudulent.

12. The Hon'ble NCLAT in ***Monotrone Leasing Pvt. Ltd. Vs. PM Cold Storage Pvt. Ltd., [2020] ibclaw.in 21 NCLAT*** has held the following:

    "29 Section 65 of the Code provides for penal action for initiating Insolvency Resolution Process with a fraudulent or malicious intent or for any purpose other than the resolution. However, the same cannot be construed to mean that if a petition is filed under Section 7, 9 or 10 of the Code without any malicious or fraudulent intent, then also such a petition can be rejected by the Adjudicating Authority on the ground that the intent of the Applicant/Petitioner was not resolution for Corporate Insolvency Resolution Process. As the proceedings under IBC are summary in nature, it is difficult to determine the intent of the Applicant filing an application under Section 7, 9 or 10 of the Code unless shown explicitly by way of documentary evidence. This situation may arise in specific instances where a petition is filed under IBC specifically with a fraudulent or malicious intent."

13. Therefore, for attracting the provisions of Section 65 of the Code, it is incumbent upon the Applicant to establish, by cogent material, that the initiation of the insolvency proceedings was fraudulent or initiated with malicious intent for a purpose other than the resolution of insolvency. The element of malice or fraudulent initiation must be proven beyond reasonable doubt. There must be substantial and corroborative evidence to explicitly prove 'fraudulent intent', 'malice' and 'mens rea' on the part of the Applicant. The penalties under Section 65 cannot be imposed unless a clear case of fraudulent or malicious intent is established.

14. The allegations advanced by the Applicant primarily upon WhatsApp conversations, email communications, vouchers, internal accounting records and other contemporaneous documents to contend that the payments made by the Financial Creditor were linked to commercial operations of the tea factory and the Financial

Creditor has relied upon the admitted transfer of Rs. 3,34,50,750/- and the admitted remittance of Rs. 74,45,000/- by the Corporate Debtor. Accordingly, such repayment unequivocally establishes a financial accommodation. Thus, the core dispute between the parties pertains to the true nature and character of the transactions, namely, whether the amounts advanced constitute a *financial debt* within the meaning of the Code, or whether they were merely part of a commercial arrangement between the parties.

15. The Applicant has not produced any cogent material demonstrating that the Financial Creditor invoked the insolvency jurisdiction for any collateral, oblique or extraneous purpose unrelated to insolvency resolution with a malicious intent. Mere allegations, cannot substitute the stringent standard of proof contemplated under a penal provision such as Section 65 of the Code.
16. A creditor asserting rights under documents which it bona fide considers to be valid and enforceable cannot be accused of abusing the insolvency process merely because the debtor disputes those documents. Acceptance of such an argument would effectively permit every Corporate Debtor to frustrate insolvency proceedings simply by instituting collateral litigation challenging the underlying documents, thereby defeating the time-bound framework envisaged under the Code.
17. In the present case, the material placed on record is insufficient to conclusively hold that the Financial Creditor initiated the proceedings fraudulently or maliciously or that the Section 7 petition was filed solely to abuse the process of this Tribunal. The fact that the Corporate Debtor disputes the nature of the transactions or asserts an alternative commercial explanation does not, by itself, establish the ingredients of Section 65 of the Code.
18. Consequently, this Tribunal is unable to arrive at a finding that the stringent requirements of Sections 65 and 75 of the Code, stand satisfied. The allegations raised are insufficient to demonstrate that the present proceedings have been initiated fraudulently or with malicious intent for a purpose other than the resolution of insolvency.

Order

19. Accordingly, the present application bearing **I.A(IBC)/167/GB/2025**, being devoid of merit, is **dismissed** except para (d) of the prayer as the main Company Petition bearing **CP(IB)/28/GB/2025** is already dismissed.

20. No order as to costs.
21. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsels.
22. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.
23. File be consigned to records.

Sd/-	**Sd/-**
Yogendra Kumar Singh	**Rammurti Kushawaha**
Member (Technical)	**Member (Judicial)**

Signed this on 5th day of August, 2026.

Aditya Prakash (LRA)