**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**HYDERABAD BENCH, COURT-II**

**I.A (IBC) No. 1272 of 2023**

**IN**

**C.P (IB) No. 402/07/HDB/2020**

**[Under Section 66 of the Insolvency and Bankruptcy Code, 2016]**

**IN THE MATTER OF M/S. DQ ENTERTAINMENT (INTERNATIONAL) LIMITED.**

**Between:**

1. **MR. VENKA REDDY BATHINA, LIQUIDATOR,**
M/s. DQ Entertainment (International) Limited,
Plot No. 644, Aurora Colony, Road No. 3,
Banjara Hills, Hyderabad – 500034,
Telangana, India.

**.... Applicant/Liquidator**

**Versus**

**1. MR. TAPAAS CHAKRAVARTI**
(Suspended Director of the Corporate Debtor)
Plot No. 724/A/1, Road No. 37,
Jubilee Hills, Hyderabad – 500033,
Telangana.

**.... Respondent No. 1/R1**

**2. MRS. RASHIDA HATIM ADENWALA**
(Erstwhile Director of the Corporate Debtor)
H. No. 1-31-955/50, Plot No. 50, Mansarovar Villas-II,
Sai Sagar Heights, Tirumalagiri,
Hyderabad – 500015, Telangana.

**..... Respondent No. 2/R2**

**3. MR. SRINIVASARAGHAVAN SUNDAR**
(Erstwhile Director of the Corporate Debtor)

Plot No. 97, Vasavi Colony, Near Community Hall,
Karkhana, Secunderabad – 500015, Telangana.

**..... Respondent No. 3/R3**

**4. MR. GOUTAM AUKNOOR**
(Erstwhile Director of the Corporate Debtor)
Old No. 42, New No. 70, III Main Road,
K.B. Nagar, Adyar, Chennai – 600020,
Tamil Nadu.

**..... Respondent No. 4/R4**

**5. MR. SANJAY CHOUDHARY**
Erstwhile Chief Financial Officer (KMP/CFO) of
M/s. DQ Entertainment (International) Limited,
Flat No. 212, Sri Gayatri Elegant, Sy. No. 51,
Karkhana, Kakaguda, Vasavi Nagar,
Secunderabad – 500015, Telangana.

**..... Respondent No. 5/R5**

**Date of Order:20.08.2026.**

**Coram:**

Hon'ble Shri Rajeev Bhardwaj, Member (Judicial)

Hon'ble Shri Sanjay Puri, Member (Technical)

**Counsels Present**

| | | |
|---|---|---|
| For Applicant | : | Mr. M. Maharshi Viswaraj, Ld. Counsel. |
| For Respondent .1& 2. | : | Mr. Shreyan Reddy, Ld. Counsel. |
| For Respondent .3 & 4 | : | Mr. G. Bhupesh, Ld. Counsel. |

1. The present Interlocutory Application was originally filed by **CS. Dr. Ahalada Rao Vummenthala, Resolution Professional of M/s. DQ Entertainment (International) Limited**, under Section 66 of the Insolvency and Bankruptcy Code, 2016. Subsequently, pursuant to the Order dated **11.06.2024** passed in **I.A. (IBC) No. 1272 of 2023, Mr. Venka Reddy Bathina, Liquidator of M/s. DQ Entertainment (International) Limited**, was substituted as the Applicant. The present Application is accordingly being prosecuted by the Applicant/Liquidator against **Mr. Tapaas Chakravarti, Suspended Director of the Corporate Debtor; Mrs. Rashida Hatim Adenwala, Erstwhile Director of the Corporate Debtor; Mr. Srinivasaraghavan Sundar, Erstwhile Director of the Corporate Debtor; Mr. Goutam Auknoor, Erstwhile Director of the Corporate Debtor; and Mr. Sanjay Choudhary, Erstwhile Chief Financial Officer (KMP/CFO) of M/s. DQ Entertainment (International) Limited** (hereinafter collectively referred to as the "Respondents"), seeking the following reliefs:

i) To pass an order directing the Respondents to make good the losses caused to the Creditors of the Corporate Debtor.

ii) To declare the following transactions, as mentioned in paragraph 12 of the Application filed by the Applicant, as fraudulent:

a) Loan repayment of Rs. 50 Lakhs was made to Mr. Tapaas Chakravarthy (Erstwhile Director and CEO) during the financial year 2017-18. However, the cash inflow from loan receipts was not clearly shown in the Corporate Debtor's books of account. The management did not provide proper and satisfactory explanations for the above-said loan repayment.

b) During the financial year 2017-18, there were irregularities in the information provided by the management for addition to Intangible Assets of Rs. 225.24 Lakhs. Out of this, Rs. 171.05 Lakhs were transferred from Intangible Assets under Development, which was initially transferred from Debtor Ledger (Zagtoon SCRL). It was observed that there were no actual cash inflows and outflows; revenue was recognized in the previous years and subsequently transferred to assets, and corresponding depreciation was claimed. As informed by the Company, "the project will take around 36 months to 48 months from conceptualization to delivery. Until then, the same will be recognized as an Intangible Asset under Development. Later on, when the first delivery is done, the same will be moved to Intangible Assets." However, the reason for recognizing revenue has not been explained by the erstwhile management of the Corporate Debtor.

c) Letter of Credit (LC) was invoked for an amount of Rs. 4,889.70 Lakhs on behalf of DQ Entertainment (Ireland) Limited, which is a subsidiary company, and subsequently converted into a loan during the financial year 2017-18. Thereafter, the said overseas subsidiary entity was reported as winding up, and the receiver was appointed in October 2019. The said act clearly indicates such conversion was with a mala fide and fraudulent intention to defraud the creditors and stakeholders.

d) Bad debts written off for an amount of Rs. 21.45 Lakhs related to Bangla TV for Rs. 12.63 Lakhs and Barinda Media Limited for an amount of Rs. 8.81 Lakhs. Upon further verification of the Debtor Ledgers, it was observed that, in the case of Bangla TV, the projects of Charlie Chaplin and RobintoorVuwa were 100% executed and the remaining balance was self-written off by the Company. In the case of Barinda Media Limited, the revenue was recognized for the Ironman Project, and the same was self-written off by the Company. When clarification was sought in this regard, no proper explanation was provided for these write-offs.

e) An amount of Rs. 602.43 Lakhs was transferred from Axis Bank Cash Credit Account to DQ Entertainment (Ireland) Limited during the financial year 2017-18. When clarification was sought from the management, no proper explanation for this transaction was provided. Thereafter, the said overseas subsidiary entity was reported as winding up, and the receiver was appointed in October 2019. The said act clearly indicates such transfer was with a mala fide and fraudulent intention to defraud Axis Bank Limited, other creditors and stakeholders.

iii) Direct the Respondent Nos. 1 to 5, the members of the suspended Board/Management of the Corporate Debtor, to contribute a sum of Rs. 57,34,63,000/- to the Corporate Debtor CIRP Account towards the transactions carried out under Section 66 of the Insolvency and Bankruptcy Code, 2016.

**CASE OF THE APPLICANT**

2. The Applicant states that the Financial Creditor filed a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 against the Corporate Debtor. It is averred that this Adjudicating Authority, vide order dated 17.06.2022 in CP (IB) No. 402/07/HDB/2020, admitted the petition, initiated CIRP and appointed Mr. Madhusudhan Rao Gonugunta as the Interim Resolution Professional. The Applicant further avers that the CoC, in its first meeting held on 16.07.2022, with 68.40% voting share, resolved to appoint the Applicant as the Resolution Professional. It is further stated that the CIRP period was extended from time to time.

3. The Applicant submits that, upon examining the books of account and records of the Corporate Debtor provided by the suspended management and available at its registered office, the Applicant formed an opinion that certain transactions required examination under Section 66 of the Code.

4. Pursuant to the decisions of the CoC taken in its meetings held on 26.09.2022 and 07.10.2022, the Resolution Professional appointed M/s. Sarath & Associates, Chartered Accountants, as the Transaction Auditor to examine the transactions of the Corporate Debtor for the period from 01.04.2017 to 17.06.2022 under Sections 43, 45, 50 and 66 of the Code.

5. It is the case of the Applicant that the conclusions, observations and comments of the Transaction Auditor, as contained in the Transaction Audit Report annexed as Annexure-1, along with the observations of the Resolution Professional based on the information furnished by the management of the Corporate Debtor, disclose, inter alia, loan repayment of Rs. 50 Lakhs to Mr. Tapaas Chakravarthy (Erstwhile Director and CEO) without proper explanation; irregularities in addition to intangible assets amounting to Rs. 225.24 Lakhs, including transfer of Rs. 171.05 Lakhs from Intangible Assets under Development and recognition of revenue without explanation; invocation of Letter of Credit amounting to Rs. 4,889.70 Lakhs in favour of DQ Entertainment (Ireland) Limited and its subsequent conversion into loan; write-off of bad debts amounting to Rs. 21.45 Lakhs; and transfer of Rs. 602.43 Lakhs from the Axis Bank Cash Credit Account to DQ Entertainment (Ireland) Limited, which, according to the Applicant, indicate fraudulent transactions intended to defraud the creditors and stakeholders.

6. The Applicant contends that the transactions identified in the Transaction Audit Report dated 12.06.2023 show that the affairs of the Corporate Debtor were not conducted in the normal course of business and that the Respondents failed to discharge their duties properly, resulting in fraudulent transactions intended to defraud the creditors. It is further contended that, based on the Transaction Audit Report and the supporting documents, the Applicant formed an opinion that the Respondents failed to exercise due diligence, siphoned off funds by advancing amounts to related parties, and carried out fraudulent transactions amounting to Rs. 57,34,63,000/-, thereby causing loss to the creditors and rendering themselves liable under Section 66(2) of the IBC to contribute the said amount to the Corporate Debtor and for appropriate action in accordance with law.

**CASE OF THE RESPONDENT NOS. 1 & 2.**

7. The Respondents contend that the Applicant has proceeded on false and misconceived facts. It is their case that the Transaction Audit Report dated 12.06.2023 prepared by M/s. Sarath & Associates, Chartered Accountants, for the period from 01.04.2017 to 17.06.2022, does not record any specific finding or observation classifying the impugned transactions as fraudulent under Section 66 of the IBC. It is further contended that the Applicant, on its own, classified the transactions as fraudulent and instituted the present Application on an erroneous factual narration with mala fide intentions.

8. The Respondents further submit that the present Application is devoid of substance as the requirements under Section 66 of the IBC, including formation of an opinion and determination supported by a concrete finding, have not been satisfied. It is contended that the allegations are based on assumptions and are unsupported by the Transaction Audit Report. Reliance has been placed on ***Svenska Handels Banken v. Indian Charge Chrome and Others, Anil Rishi v. Gurbaksh Singh, Mr. Anuj Bajpai, RP of Tollways (Ujjain) Pvt. Ltd. v. Surendra Lodha and Jayesh Sanghrajka v. Divine Investments*** to contend that allegations of fraud require unimpeachable evidence and that a forensic audit report must specifically classify the transactions as fraudulent under Section 66 of the IBC.

9. The Respondents contend that the Applicant failed to comply with Regulation 35A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and that no mens rea has been established. It is further contended that the Application was filed only to harass the Respondents and cause reputational loss.

10. The Respondents attribute the financial difficulties of the Corporate Debtor to the global market slowdown, liquidity issues and the COVID-19 pandemic, which caused production delays, withdrawal of customer orders and eventual shutdown of operations. They submit that the management exercised due diligence to minimise losses and extended assistance to the

Resolution Professional by facilitating access to the books of account, Tally data, passwords and other available records. Respondent No. 2 further states that, being a professional director, she was not involved in the day-to-day or financial affairs of the Corporate Debtor, and that although she responded to the queries of the Resolution Professional and sought an opportunity to interact with the Transaction Auditor, no such opportunity was provided.

11. The Respondents have specifically denied the allegation regarding repayment of Rs. 50,00,000/- to Mr. Tapaas Chakravarthy, Erstwhile Director and CEO, during the financial year 2017-18 as being contrary to the record, false and based on misconceived facts. It is their case that Respondent No. 1 had advanced loans to the Corporate Debtor from time to time to meet its working capital requirements and urgent business needs. According to the Respondents, against the outstanding loan of Rs. 2,02,78,056/- as on 01.04.2017, the Corporate Debtor repaid Rs. 50,00,000/-, while a sum of Rs. 1,73,75,934/- remained payable as on 31.03.2022, exclusive of accumulated salary dues of Rs. 2,47,00,000/-. It is, therefore, contended that the said transaction does not amount to a fraudulent transaction.

12. The Respondents have further denied the allegation of irregularities in the addition of Intangible Assets amounting to Rs. 225.24 Lakhs, including transfer of Rs. 171.05 Lakhs from Intangible Assets under Development, as false and baseless. It is their case that the accounts of the Corporate Debtor were duly audited by MSKA & Associates, Statutory Auditors, and that the accounting treatment had been explained by the management on several occasions.

13. According to the Respondents, under the co-production business model, the Corporate Debtor received consideration partly in cash and partly in the form of exclusive distribution rights, which were accounted for in accordance with Ind AS 38. It is further submitted that the projects generally took about 24 to 48 months from conceptualisation to delivery

and, accordingly, the distribution rights were recognised as Intangible Assets under Development until completion of the project and thereafter transferred to Intangible Assets upon first delivery. Since a part of the consideration was received in the form of distribution rights, there was no corresponding cash inflow or outflow in respect thereof. Accordingly, the Respondents contend that the accounting treatment was in the ordinary course of business and does not constitute a transaction falling within the ambit of Section 66 of the IBC.

14. The Respondents submit that DQ Entertainment (Ireland) Limited was a wholly-owned subsidiary of the Corporate Debtor. The Corporate Debtor obtained Standby Letters of Credit (SBLCs) from its bankers for the development of its Intellectual Properties. These SBLCs were discounted by DQ Ireland to fund the production of animated television series including Lassie, Iron Man, Jungle Book and Peter Pan. The proceeds received by DQ Ireland upon discounting the SBLCs were remitted to the Corporate Debtor against invoices raised for production work carried out by the Corporate Debtor. From this arrangement, the Corporate Debtor earned revenue of approximately Rs. 18,000 lakhs during the period 2010–2019.

15. The Respondents further submit that trademark disputes, project changes, production delays, global market slowdown and liquidity issues delayed recoveries, resulting in invocation of the SBLCs. Upon invocation, the Corporate Debtor honoured the payments on behalf of DQ Ireland. The amounts so paid were recorded in the books of the Corporate Debtor through journal entries as loans receivable from DQ Ireland. The Letter of Credit amounting to Rs. 4,889.70 lakhs was accordingly reflected as a loan receivable during 2017-18. The ledger of these journal entries was placed on record to show that there was no actual outflow of funds. DQ Ireland was subsequently wound up in October 2019. The Respondents contend that the said accounting treatment was made in the ordinary course of the business arrangement between the Corporate Debtor and its subsidiary

and was not undertaken with any mala fide or fraudulent intention to defraud the creditors or stakeholders.

16. Concerning the transfer of Rs.602.43 Lakhs from the Axis Bank Cash Credit Account to DQ Entertainment (Ireland) Limited, the Respondents submit that the said amount formed part of the larger SBLC/LC invocation transactions already explained. It represented the amount debited from the Corporate Debtor’s cash credit account towards payment arising from the Letters of Credit discounted by DQ Ireland. The Respondents contend that the transfer was made in the ordinary course of the inter-company business arrangement with its wholly owned subsidiary and was not undertaken with any mala fide or fraudulent intention to defraud the creditors or stakeholders. Accordingly, the said transaction does not fall within the scope of Section 66 of the Code.

17. The Respondents contend that the write-off of bad debts amounting to Rs. 21.45 Lakhs, comprising Rs. 12.63 Lakhs relating to Bangla TV and Rs. 8.81 Lakhs relating to Barind Media Limited, is borne out by the records, while specifically denying the allegation that no proper explanation was furnished for such write-offs. It is their case that the Corporate Debtor licensed its television productions to various television channels and digital media platforms and recognised revenue upon execution of the licence agreements in accordance with its revenue recognition policy.

18. According to the Respondents, the licence agreements were subsequently cancelled, resulting in the aforesaid write-offs. It is further submitted that Barind Media returned the *Iron Man 1* tapes after inspection as they were in SD version and not in HD with a 5.1 channel track, while Bangla TV terminated the agreement after discontinuing its children's programming segment. It is further contended that the write-off of Rs. 21.45 Lakhs constituted only 0.2% of the total revenue from operations of Rs. 9,586.04 Lakhs during the financial year 2017-18. Reliance has been placed on *Venkatesan Sankaranarayanan, RP for RTIL Limited v. Nitin Shambhukumar Kasliwal & Ors.* to contend that write-offs are an internal accounting

procedure and that unsuccessful commercial decisions do not amount to fraudulent trading under Section 66 of the IBC.

19. The written submissions filed by Respondent Nos. 3 and 4, as well as the written submissions filed by Respondent Nos. 1 and 2, substantially reiterate the contentions already set out hereinabove in the counter of Respondent Nos. 1 and 2. Since the said contentions are substantially repetitive, the same are not being reproduced again for the sake of brevity. The submissions, to the extent relevant, shall be considered while dealing with the respective transactions.

**FINDINGS AND DECISION**

20. We have heard the Learned Counsel for the Applicant and Respondents and carefully perused the material and documents placed on record. Upon due consideration of the submissions and the material available on record, we proceed to examine the transactions in question.

21. The Corporate Debtor, M/s. DQ Entertainment (International) Limited, was admitted into CIRP vide order dated 17.06.2022 passed by this Adjudicating Authority in C.P. (IB) No. 402/07/HDB/2020, on a petition filed under Section 7 of the Code, and Mr. Madhusudhan Rao Gonugunta was appointed as the IRP. In the first meeting of the CoC held on 16.07.2022, Dr. Ahalada Rao Vummenthala was appointed as the RP of the Corporate Debtor. The CIRP period was thereafter extended from time to time.

22. The present Interlocutory Application was initially filed by CS. Dr. Ahalada Rao Vummenthala, Resolution Professional of the Corporate Debtor, under Section 66 of the Code. Subsequently, pursuant to the order dated 11.06.2024 passed in the present Interlocutory Application, Mr. Venka Reddy Bathina, Liquidator of the Corporate Debtor, was substituted as the Applicant. Accordingly, the present Application is being prosecuted by the Applicant/Liquidator against the Respondents herein.

23. The Applicant averred that, pursuant to the decisions of the CoC taken in its meetings held on 26.09.2022 and 07.10.2022, the RP appointed M/s.

Sarath & Associates, Chartered Accountants, as the Transaction Auditor to conduct the transaction audit of the Corporate Debtor for the period from 01.04.2017 to 17.06.2022 and to examine the transactions falling under Sections 43, 45, 50 and 66 of the Code.

24. The questions that arise for consideration are: (i) whether the impugned transactions constitute fraudulent transactions within the meaning of Section 66 of the Code; and (ii) whether the Respondents are liable to contribute to the assets of the Corporate Debtor under Section 66 of the Code.

25. Before examining the rival submissions and the transactions in question, it is necessary to consider the scope of Section 66 of the IBC. Section 66 empowers the Adjudicating Authority, where it is established that the business of the Corporate Debtor has been carried on with the intent to defraud creditors or for any fraudulent purpose, to pass appropriate orders, including directing the persons who were knowingly parties to such conduct to make contributions to the assets of the Corporate Debtor.

26. To succeed in an application under Section 66 of the IBC, the Applicant is required to establish, by placing sufficient material on record, that the transactions in question were carried out with the intent to defraud creditors or for a fraudulent purpose. The burden lies upon the Applicant to place cogent material before the Adjudicating Authority to establish the ingredients of Section 66.

27. The following elements[1] must be established under Section 66 of IBC:
    I. Business of the Corporate Debtor has been carried out with an intent to defraud the creditors.
    II. Directors participated in carrying on the business of the Corporate Debtor despite knowing the likely insolvency of the Corporate Debtor.

28. The Hon'ble NCLAT in the case of ***Regen Powertech Pvt. Ltd., represented by erstwhile RP Ebenezar Inbaraj v. M/s. Wind Construction Pvt. Ltd. (2022) ibclaw.in 793*** **NCLAT** clarified that fraudulent trading requires a

[1] Shibu Job Cheeran & Ors. V. Ashok Velamur Seshadri, (2023) ibc.in 158 NCLAT

high degree of proof, and relevant facts and evidence must be presented unambiguously. The Applicant must provide tangible evidence to substantiate the claim of fraudulent intent. The Hon'ble Supreme Court, in ***Anuj Jain IRP for Jaypee Infratech Ltd. v. Axis Bank Ltd.***[2], emphasized the distinction between the elements of preferential, undervalued, and fraudulent transactions, noting that the inquiry for fraudulent trading is distinct from that of preferential and undervalued transactions. Specific material facts must be pleaded if a transaction is sought to be brought under the provisions of Sections 45/46/47 or Section 66 of the Code.

**Repayment of Loan of Rs.50,00,000/- to Mr. Tapaas Chakravarthy (Erstwhile Director and CEO)**

29. The Applicant contends that the Corporate Debtor repaid a sum of Rs.50,00,000/- to Mr. Tapaas Chakravarthy during the Financial Year 2017-18, without the corresponding cash inflow towards the alleged loan being clearly reflected in the books of account. It is further contended that the management failed to furnish a proper and satisfactory explanation for the said repayment. Based on the Transaction Audit Report dated 12.06.2023, the Applicant seeks examination of the said transaction under Section 66 of the Code.

30. Per contra, the Respondents admit the repayment of Rs.50,00,000/- to Respondent No.1 during the Financial Year 2017-18. It is their case that the amount represented part repayment of an unsecured loan advanced by Respondent No.1 to the Corporate Debtor from time to time towards its working capital requirements and urgent business needs. According to the Respondents, Rs.2,02,78,056/- was outstanding towards such loan as on 01.04.2017, against which the aforesaid amount was repaid.

31. We have considered the submissions advanced by the parties and perused the material available on record. The repayment of Rs.50,00,000/- is not in dispute, as the same has been expressly admitted by the Respondents. Therefore, the issue for consideration is whether the payment was made

[2] (2020) ibclaw.in 06 SC

towards an existing loan liability or was undertaken with an intent to defraud the creditors or for any fraudulent purpose.

32. In support of their contention, the Respondents have relied upon Annexure-B, forming part of the audited financial statements of the Corporate Debtor for the Financial Year 2017-18 and containing the Related Party Disclosures. Under Note No.36, Mr. Tapaas Chakravarti is identified as the Managing Director and Chief Executive Officer. The disclosure records "Loan (re-paid)/taken – Managing Director & Chief Executive Officer" of Rs.50,00,000/- for the Financial Year 2017-18. It further records the loan taken from the Managing Director and Chief Executive Officer at Rs.2,02,78,056/- as on 31.03.2017 and Rs.1,52,78,056/- as on 31.03.2018.

33. The aforesaid entries in the audited financial statements correspond with the Respondents' explanation that Rs.50,00,000/- was repaid against the outstanding loan liability during the relevant financial year. However, the Transaction Audit Report has questioned the corresponding cash inflow relating to the alleged loan and observed that the management had not furnished a proper and satisfactory explanation in that regard. Thus, while the financial statements record the loan transaction and its repayment, the records do not independently establish the actual movement of funds relating to the original advances.

34. The said deficiency, however, has to be considered in the context of the specific requirements of Section 66 of the Code. The mere absence of clear evidence regarding the original inflow, or the fact that the repayment was made to an erstwhile Director and Chief Executive Officer, does not by itself establish that the transaction was undertaken with an intent to defraud the creditors. For invoking Section 66, the fraudulent purpose or intent must be established from the material on record.

35. In the present case, apart from the observations contained in the Transaction Audit Report, no further material has been placed before us to establish that the loan liability was fictitious, that the repayment was a

device for diversion of the Corporate Debtor's funds, or that the payment was made pursuant to any fraudulent arrangement intended to prejudice the creditors.

36. In view of the above, we find that the Applicant has not established the requisite fraudulent intent in respect of the repayment of Rs.50,00,000/- to Mr. Tapaas Chakravarti. Accordingly, the said transaction cannot be held to constitute fraudulent trading or fraudulent conduct attracting Section 66 of the Code.

**Addition to Intangible Assets of Rs.225.24 Lakhs, including transfer of Rs.171.05 Lakhs from Zagtoon SCRL Debtor Ledger.**

37. The Applicant, relying upon the Transaction Audit Report dated 12.06.2023, contends that during the Financial Year 2017-18, the Corporate Debtor added Rs. 225.24 Lakhs to Intangible Assets, out of which Rs. 171.05 Lakhs was transferred from Intangible Assets under Development, which had earlier been transferred from the Debtor Ledger of Zagtoon SCRL. It is contended that there was no corresponding cash inflow or outflow and that revenue recognised in the earlier years was subsequently transferred to assets, on which depreciation was claimed. The Applicant, therefore, alleges that the said accounting treatment constituted a fraudulent transaction under Section 66 of the Code.

38. The Respondents have denied the allegation as false and baseless. They submit that the accounts of the Corporate Debtor were duly audited by MSKA & Associates and that the accounting treatment had been explained by the management. According to the Respondents, under the co-production model, consideration was received partly in cash and partly by way of exclusive distribution rights, which were recognised as Intangible Assets under Development during the project period and transferred to Intangible Assets upon first delivery, in accordance with the accounting treatment stated to be followed under Ind AS 38. Since a portion of the consideration was in the form of distribution rights, there was no corresponding cash inflow or outflow. The Respondents contend that the

treatment was in the ordinary course of business and does not constitute a fraudulent transaction under Section 66 of the Code.

39. The Transaction Auditor, however, questioned the basis for recognition of the revenue in the earlier years and its subsequent transfer to Intangible Assets, and observed that the reason for such recognition had not been explained by the erstwhile management. The explanation subsequently furnished by the Respondents regarding the distribution rights does not, by itself, establish the precise accounting basis for the amounts in question. Further, neither side has placed sufficient independent documentary material to establish the complete accounting trail, including the basis for the addition of Rs. 225.24 Lakhs, the manner in which Rs. 171.05 Lakhs was transferred from the Zagtoon SCRL Debtor Ledger to Intangible Assets under Development and thereafter to Intangible Assets, and the dates of such transfers.

40. Upon consideration of the material placed on record, there is also no sufficient material, apart from the observations in the Transaction Audit Report, to establish the precise amount of depreciation claimed on the said Intangible Assets, the date from which such depreciation was charged, or the basis on which the corresponding revenue was recognised in the earlier years. In the absence of such material, we are not in a position to conclusively determine that the accounting treatment was fictitious or fraudulent. The observations of the Transaction Auditor may raise questions regarding the manner in which the entries were accounted for; however, in the absence of further corroborative material, they do not, by themselves, establish the fraudulent intent required for invoking Section 66 of the Code.

41. Accordingly, the accounting treatment relating to the addition of Rs. 225.24 Lakhs to Intangible Assets, including the transfer of Rs. 171.05 Lakhs originating from the Zagtoon SCRL Debtor Ledger, remains insufficiently substantiated on the material available on record. However, the Applicant has also failed to place sufficient material establishing that the said

accounting treatment was undertaken with an intent to defraud the creditors of the Corporate Debtor. Hence, the allegation of a fraudulent transaction under Section 66 of the Code is not established.

**Transactions relating to DQ Entertainment (Ireland) Limited – Invocation of Letter of Credit of Rs. 4,889.70 Lakhs and Transfer of Rs. 602.43 Lakhs from Axis Bank Cash Credit Account to DQ Entertainment (Ireland) Limited.**

42. The Applicant contends that during FY 2017-18, the Corporate Debtor had obtained a Letter of Credit amounting to Rs. 4,889.70 lakhs, which was utilised on behalf of DQ Entertainment (Ireland) Limited ("DQ Ireland"). Upon invocation of the Letter of Credit, the Corporate Debtor discharged the liability towards the discounting banks, and the amounts so paid were thereafter recorded in the books of the Corporate Debtor as a loan receivable from DQ Ireland. It is further contended that an amount of Rs. 602.43 lakhs was transferred from the Axis Bank Cash Credit Account to DQ Entertainment (Ireland) Limited. The Applicant relies upon the subsequent winding up of DQ Entertainment (Ireland) Limited and appointment of a receiver in October 2019 and contends that the aforesaid transactions were undertaken with a mala fide and fraudulent intention to defraud the creditors and stakeholders.

43. The Respondents contend that the transactions arose in the ordinary course of the business arrangements between the Corporate Debtor and its wholly-owned subsidiary, DQ Entertainment (Ireland) Limited. It is stated that the Corporate Debtor had obtained SBLC facilities from banks, which were discounted by DQ Ireland for financing the production of animated television series. Due to delays in the projects, trademark issues and difficulties in recovery of production costs, the SBLCs were devolved, and the issuing bank honoured the payments on behalf of DQ Ireland, which were thereafter recorded as loans receivable from DQ Ireland in the books of the Corporate Debtor. The Respondents further contend that the amount transferred through the Axis Bank Cash Credit Account formed part of the

same business and banking arrangements and deny any fraudulent or mala fide intention.

44. Upon consideration of the material on record, we find that the Transaction Audit Report records both the invocation of the Letter of Credit / SBLC of Rs. 4,889.70 lakhs and the transfer of Rs. 602.43 lakhs from the Axis Bank Cash Credit Account to DQ Entertainment (Ireland) Limited. The Respondents have placed on record ledger extracts recording the amounts paid upon invocation as loans receivable from DQ Ireland. However, neither the Applicant nor the Respondents have placed before this Tribunal the underlying Letter of Credit / SBLC documents, formal records evidencing their invocation by the banks, the relevant bank statements, or any inter-company loan agreement or confirmation establishing the nature and purpose of the aforesaid transactions. Further, the Transaction Audit Report specifically records that no proper explanation was provided by the management in respect of the transfer of Rs. 602.43 lakhs.

45. In the absence of the underlying primary banking and contractual documents, the observations in the Transaction Audit Report, by themselves, do not establish that the aforesaid transactions were undertaken with fraudulent intent or that the funds were diverted or siphoned off. Apart from the Auditor’s observations and the subsequent winding-up of DQ Ireland, no material has been brought on record by the Applicant to demonstrate diversion of funds, wrongful gain to the Respondents, or corresponding wrongful loss to the creditors of the Corporate Debtor. Accordingly, while the transactions may raise questions requiring further scrutiny, the material presently available falls short of establishing the fraudulent intent required under Section 66 of the Code. The allegations in respect of the invocation of the Letter of Credit of Rs. 4,889.70 lakhs and the transfer of Rs. 602.43 lakhs from the Axis Bank Cash Credit Account are, therefore, not established.

**Write-off of Bad Debts of Rs. 21.45 Lakhs relating to Bangla TV and Barinda Media Limited.**

46. The Applicant contends that bad debts amounting to Rs. 21.45 Lakhs, comprising Rs. 12.63 Lakhs relating to Bangla TV and Rs. 8.81 Lakhs relating to Barinda Media Limited, were written off by the Corporate Debtor. The Applicant relies upon the observations of the Transaction Auditor, who recorded that, upon verification of the Debtor Ledgers, the projects relating to Bangla TV had been fully executed, and the remaining balance was self-written off by the Company, while the revenue relating to the *Ironman* project of Barinda Media Limited was also self-written off. The Transaction Auditor further recorded that no proper explanation was provided when clarification was sought regarding the said write-offs.
47. The Respondents contend that the write-off of the aforesaid bad debts was on account of the subsequent cancellation of the respective licence arrangements. It is stated that revenue had initially been recognised in accordance with the Corporate Debtor's revenue recognition policy and that the amounts were subsequently written off upon cancellation of the agreements. The Respondents deny that the write-offs were effected with any fraudulent or mala fide intention.
48. Although the Transaction Auditor states that the Debtor Ledgers were verified in respect of the aforesaid write-offs, the said Debtor Ledgers and the underlying supporting documents have not been placed before this Tribunal. Consequently, the circumstances leading to the write-offs and the basis thereof cannot be independently verified from the material available on record.
49. The mere fact that no proper explanation was provided for the write-offs does not, by itself, establish that the write-offs were fraudulent or that the funds were diverted or siphoned off. In the absence of documentary material establishing fraudulent intent or the ingredients of Section 66 of the Code, the allegation regarding the write-off of bad debts aggregating to Rs. 21.45 Lakhs is not established.

50. We further find that the Applicant has also failed to establish the ingredients of Section 66(2) of the Code. No sufficient material has been placed on record to establish that the Respondents knew or ought to have known that there was no reasonable prospect of avoiding insolvency of the Corporate Debtor, or that they failed to exercise due diligence with a view to minimising the potential loss to the creditors. Accordingly, the requirements of Section 66(2) of the Code are also not satisfied.

51. In view of the foregoing discussion, the Applicant has failed to establish, based on the material placed on record, that the transactions in question were carried out with intent to defraud the creditors or for any fraudulent purpose, or that the statutory requirements for directing contribution under Section 66(2) of the Code have been satisfied. Accordingly, no liability can be fastened upon the Respondents under Section 66 of the Code.

Accordingly, I.A. IBC No.1272 of 2023 stands **dismissed.**

| | |
|---|---|
| Sd/- | Sd/- |
| **SANJAY PURI** | **RAJEEV BHARDWAJ** |
| **MEMBER (TECHNICAL)** | **MEMBER (JUDICIAL)** |