NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-II), CHANDIGARH

IA(I.B.C.)/1537 (CH)2022
IN
CP(IB) No.315/Chd/Hry/2019
(Admitted Matter)

IA(I.B.C.)/1537(CH)2022

[An Application under Section 66 (1) of the Insolvency and Bankruptcy Code, 2016]

Darshan Singh Anand,
Resolution Professional
In the matter of Vikas WSP Ltd.
Reg. No. IBBI/IPA-002/IP-N00326/2017-18/10931
Address: 310 New Delhi House,
Connaught place, New Delhi -110001

...Applicant/ Resolution Professional

Versus

Mrs. Bimla Devi Jindal
Address at: 123-Vinoba Basti, Sri Ganganagar

...Respondent No. 1

Mr. Megh Raj
Address at: 123-Vinoba Basti, Sri Ganganagar

...Respondent No. 2

Mr. Ravi Sharma
Address at: 129-New Anaj Mandi, Sri Ganganagar

...Respondent No. 3

Mr. Mahesh Batra
Address at: 189, New Anaj Mandi, Sri Ganganagar,
Rajasthan, India- 335001

...Respondent No.4

Mr. Rakesh Jindal
Address at: H. No. - 194, Sector 12A, Gurgaon

...Respondent No.5

Mr. Ram Awtar Mittal
Address at: House No. 9, Sector-6, Bahardurgarh, Haryana

...Respondent No.6

Mr. Kishan Lal
Address at: A-3, JLN Marg, C Scheme Jaipur

...Respondent No. 7

Mr. Vishnu Bhagwan
Address at: B-39, Madhuban Colony, New Delhi

...Respondent No. 8

Mrs. Kamini Jindal
Address at: 123-Vinoba Basti, Sri Ganganagar

...Respondent No. 9

Ms. Deepika Aggarwal
Address at: 93-Vinoba Basti, Sri Ganagnagar

...Respondent No. 10

Mr. Neeraj Chhabra
Address at: RCP Tal Colony, Q No. 34, Suratgarh

...Respondent No. 11

Mr. Pawan Singla
Address at: Big Nadi Paar, Backside Kohinoor Enclave,
Govind Bagh, Patiala, Punjab, India 147001

...Respondent No. 12

Mr. Anandilal
Address at: Badangarh, Jhunjhunun,
Rajasthan, India-333035

...Respondent No. 13

Ms. Suman Devi
Address at: Ward No. 5, Birol Road Nawalgarh,
Jhunjhunun, Rajasthan, India, 333304

...Respondent No. 14

Mr. Baljinder Singh
Address at: Pakhoke, Barnala, Punjab, 148103

...Respondent No. 15

Mr. Buta Singh
Address at: Pakhode, Barnala, Punjab, 148103

...Respondent No. 16

Mr. Vishanudutt Birol
Address at: Nawalgarh Jhunjhunun,
Rajasthan – 333304

...Respondent No. 17

Mr. Rajinder Pal
Address at: House No. B-11/911 Street No-5,
K.C Road, Barnala, Punjab-148101

...Respondent No. 18

IN THE MATTER OF:

CP(IB) No. 315/Chd/Hry/2019
(An application under Section 7 of the Insolvency and Bankruptcy Code, 2016)

Bank of India

...Financial Creditor

Versus

Vikas WSP Limited

...Corporate Debtor

Order delivered on: 09.09.2026

Coram: Hon'ble Shri Kaushalendra Kumar Singh, Member (Technical)
Hon'ble Shri Khetrabasi Biswal, Member (Judicial)

Present:

For the Applicant	:	Mr. I.P.S. Oberoi, Advocate, Mr. G.S. Sarin PCS
For the Respondent No. 1	:	Mr. Anand Chhibbar, Senior Advocate with Mr. Yashpal Gupta, Advocate
For the Respondent No. 3, 4, 5, 6, 7, 11, 13, 14, 17 & 18	:	Mr. Karanveer Jindal, Advocate
For the Respondent No. 9	:	Mr. Atul V. Sood with Mr. Yashpal Gupta and Mr. Rohan Sood, Advocates

ORDER

The present Application bearing No. IA(I.B.C.)/1537(CH)2022 has been filed by **Darshan Singh Anand,** the Resolution Professional of Vikas WSP Limited (hereinafter referred to as "the Applicant/Resolution Professional") under Section 66 (1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the **Code**") for seeking following directions and orders namely:

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(a) Respondents to take appropriate action against the Respondents/ Ex-management of the Corporate Debtor under the provisions of Sections 66 & 67 of the Insolvency and Bankruptcy Code, 2016;

(b) To direct the Respondents/ Ex-management to disclose the whereabout of the free hold land value Rs. 42,307.37 Lacs and restore the same to the pool of assets of the Corporate Debtor;

(c) To direct the Respondents/ Ex-management to restore the above referred properties and make good the losses caused to Corporate Debtor by their fraudulent acts.

BRIEF FACTS OF THE CASE

2. Brief facts and the averments made by the Applicant in its Application and as narrated by the learned counsel for the Applicant are summarized hereunder:

(i) The Corporate Insolvency Resolution Process ("CIRP") of the Corporate Debtor commenced vide order dated 02.02.2022 passed by this Tribunal.

(ii) Initially, there were 23 Respondents in this Application, however, Respondent No. 19 to 23 were subsequently deleted by order dated 01.05.2024 in IA No. 1109 of 2024. Presently, there are 18 respondents who all were directors of the Corporate Debtor at some time or the other in the past and some of the Respondents are still continuing as directors.

(iii) The subject Application is being filed in the background that taking into account certain ambiguity in the books of account of the Corporate Debtor, with the approval of the Committee of Creditors, M/s Mukesh Raj & Co. Chartered Accountants were appointed as transaction auditors of the Corporate Debtor. During the course of the preparation of the transaction

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audit report, certain transactions are found which are deemed as fraudulent in nature and which remain live within the two financial years prior to the date of commencement of the CIRP as such same comes under sec 66 of IBC and have put an adverse effect on Corporate Debtor and reduced the value of the assets of Corporate Debtor.

(iv) The records show that the Balance Sheets of the Corporate Debtor for the financial years 2007-08 and 2008-09 reflected unencumbered freehold land valued at ₹278.57 Crores and ₹30.37 Crores, respectively. The Balance Sheet for the financial year 2009-10 also reflected the addition of another parcel of land valued at ₹114.08 Crores. However, the said land is not traceable in the subsequent records of the Corporate Debtor.

(v) Further, an asset tracing agency was engaged to trace the assets of the Corporate Debtor, which submitted its report dated 02.08.2022. Annexures 12 and 13 to the said report contained disclosures made by the Corporate Debtor before the Stock Exchange. As per these disclosures, the Corporate Debtor informed the Stock Exchange on 19.06.2008 about the purchase of agricultural land measuring 2,025 acres and, on 07.01.2008, about the purchase of agricultural land measuring 1,985 acres. It also disclosed, on 07.12.2007, the allotment of industrial land measuring 23.25 acres and, on 23.06.2008, the purchase of Industrial Plot No. SP-82 measuring 33,380 square metres. The total value of the land disclosed in these records was ₹423 Crores, and the land was shown as freehold land of the Corporate Debtor.

(vi) During the personal interaction between the RP and the suspended directors, the suspended directors stated that they were not aware of the

affairs of the Company and had no knowledge about the land in question. They stated that Mr. B.D. Aggarwal, who was aware of the affairs of the Company, had expired on 21.09.2020.

(vii) The Resolution Professional appointed a Transaction Auditor who gave a draft transaction audit report wherein following preliminary finding was returned by the Transaction Auditor vide Chapter 2 of the Draft Report:

> *"we have learned that the company were having the following classes of non-current assets:*
>
> *(Figures in Lacs)*

Particulars	*As on 31-03-2021 (Audited)*	*As on 31.03.2020 (Audited)*
Tangible Assets (WDV)		
Leasehold Land	*907.07*	*907.07*
Freehold Land	*42,307.37*	*42,307.37*
Building	*935.73*	*985.67*
Furniture and Fixtures	*15.44*	*21.54*
Office Equipment	*4.22*	*4.01*
Vehicles	*17.07*	*36.65*
Plant & Equipment	*15813.66*	*19143.72*

> *It has been observed that reduction in the value of fixed assets of the company like Plants & equipment, furniture and fixtures and office equipment, Building and vehicles is only on account of depreciation being recorded in the books of the corporate debtor. Also, we were unable to trace the physical existence of those assets and also as per audited financial statements it is clearly evident that no transfer of asset has taken place, hence, no transfer deeds of such assets.*
>
> *In addition, on December 28, 2021 sale of vehicle for cash consideration of ₹6,00,000 which has been omitted from being recorded in the unaudited provisional financial statements.*
>
> *Hence, in the absence of any conclusive evidence we are not able to conclude that whether the transfer of such vehicle be considered as undervalued transaction. Based on the information and explanations available with us, we are not able to conclude that whether the fixed assets of the corporate debtor have been transferred for a value which can be considered as undervalued transaction."*

(viii) In the draft transaction audit report the Transaction Auditor vide Chapter 3 returned the following preliminary finding:

a) *"Observation 1*

On the scrutiny of the financial statements of the corporate debtor, we have noticed that the value of raw materials as on 31.03.2020 was of₹ 6,417.92 Lacs. Afterwards, during the FY 2020-21, total raw materials amounting to 23,543.03 Lacs has been debited to the Profit and loss account whereas the total revenue recognised in the statement of Profit and loss account was of 22,161.33 Lacs only.

There has been a mismatch in the direct expenses incurred by the corporate debtor in the FY and the revenue recognised in the financial statements (i.e. raw material consumption ratio in F.Y. 2019-20 was 88.65% which increased to 106.33% in F.Y. 2020-21 despite reduction in net sales from 75,762.81 Lacs in F.Y. 2019-20 to 22,161.33 in F.Y. 2020-21). It has been disclosed in the Financial Statements that "during the F.Y. 2020-21, raw materials (Guar Split) to the extent of 46,647 quintals amounting to ₹3,055.37 Lacs has been destroyed by the management being obsolete and not being fit for usage and consumption".

Thereafter from the period starting from April 01, 2021 till February 02, 2022 the raw materials amounting to 3,151.61 Lacs has also been debited to the profit and loss account despite reduction in net sales from ₹22,161.33 Lacs in F.Y. 2020-21 to ₹2,309.54 Lacs during April 01 2021 February 02, 2022 further inflating the raw material consumption ratio to 136.46%.

Based on the past trends and analysis of the transactions under audit of the corporate debtor it can be clearly inferred that, there has been a deliberate and intentional spike in the consumption of raw materials also. No conclusive evidence can be obtained for the written off raw material amounting to ₹3,055.37 Lacs from the books of accounts thereby reducing the realisable estate of the corporate debtor.

Based on the above information and disclosure, we are of the opinion that, by sudden spike in the raw material consumption ratio and by writing-off the raw materials amounting to 3,055.37 Lacs, the recoverable estate of the corporate debtor has been drastically reduced and therefore the recoverability for the creditors of the corporate debtor has been reduced. Hence, this transaction shall be treated as transactions defrauding creditor"

b) *Observation 2*

"On the scrutiny of the financial statements of the corporate debtor, we have noticed the following advances standing to the debit of the corporate debtor for the financial years ending March 31, 2021 and March 31, 2020:

Advances to related parties amounting to ₹6,455.66 Lacs (total advances to suppliers as at March 31, 2021- ₹6824.45 Lacs), and Advances to related parties include advances given to M/s Vikas Chemi Gums India Limited and M/s Vikas Proppant & Granite Limited of ₹4,205.66 Lacs and ₹2,250.00 Lacs respectively.

The following transactions took place during the F.Y. 2019-20 and 2020-21 with these entities:

Name of Entity	*Nature of Transaction*	*Amount in (Lacs)*	
		2020-21	*2019-20*
Vikas Chemi Gums India Limited	*Purchase of raw material*	*8,449.64*	*45,838.38*
	Sale of goods	*12,660.98*	*22,743.03*
Vikas Proppant & Granite Limited	*Purchase of raw material*	*546.61*	*-*
	Sale of goods	*-*	*-*
Vikas Chemi Gums India Limited	*Advance to Supplier*	*4,205.66*	*4,205.66*
Vikas Proppant & Granite Limited	*Advance to Supplier*	*2,250.00*	*2,250.00*

Despite regular sales and purchases transactions with the entities listed above there has neither been any settlement nor any adjustment of the advances granted to the entities against such transactions.

Based on the above information and disclosure, we are of the opinion that due to non-settlement of advances granted to the related parties stated above, amounting to ₹ 6,455.66 Lacs there has been a substantial reduction in the realisable estate of the corporate debtor compared to, had such advances not been granted to or settled in the normal course of business of the corporate debtor. Hence, this transaction shall be considered as a transaction defrauding creditors."

Thus, it is clear that related party advance of Rs. 6455.66 lakh is required to be restored to the assets of the Corporate Debtor by the related parties as aforementioned.

(ix) Further, in the Draft Transaction Audit Report the preliminary filing of the Transaction Auditor in chapter 5 thereof was as follows:

"On the analysis and comparison of unaudited financial statement for the period ended on Feb 02, 2022 with that of the Books of Accounts, it is observed that there has been transfer of Vehicle dated December 28, 2021 the consideration for which has been realised in cash, amounting

to ₹6 Lacs which has been omitted from being recorded in the unaudited provisional Financial Statement and due to absence of conclusive evidence we are unable to comment on whether the transaction shall be considered as undervalued transaction.

On the scrutiny of the books of accounts of corporate debtor, it is observed that cash has been utilized for disbursement of staff salary amounting to Rs. 41.31 Lacs. It clearly indicates the intention of the corporate debtor to flow funds out of the company and consequently it reduces the realisable estate of the corporate debtor compared to, had there been no transactions of such type.

In the absence of conclusive evidence, we are not able to conclude whether such transactions be considered as fraudulent transactions under section 66 of the IBC, 2016.

The transactions mentioned in Chapter 1 and 3 of this report shall also be considered as the Fraudulent transaction under section 66 of IBC, 2020.The intention behind those transactions were to defraud the creditors of the corporate debtor and in the absence of any valid documentation and explanation from the director of the corporate debtor, it shall be considered as transactions undertaken for fraudulent purpose.

Therefore, transactions summarised below shall also be considered as Fraudulent transactions under section 66 of IBC, 2016.

Ch. No.	*Transaction Description*	*Amount Involved (Rs.) (in Lacs)*
1.	*Amount transferred to Director Mrs. Bimla Devi Jindal*	*Rs. 17.24 Lacs*
2.	*Inventories written off*	*Rs. 3,055.37 Lacs*
3.	*Advances to Related Parties*	*Rs. 6,455.66 Lacs*
Total Amount Involved		*Rs. 9,528.27 Lacs*

(x) Incidentally irrespective of abovementioned preliminary findings, in the Final Transaction Audit Report, the Transaction Auditor has not given any adverse finding which amounts to a clean chit on the above issues to the Corporate Debtor without any rhyme and reason. The Transaction Auditor was called many time and queries were posed to him by the Resolution Professional on several occasion to explain the reasons for the completely divergent conclusions in the final report from the preliminary finding in the Draft Transaction Audit Report but no satisfactory answer was given by them.

In the reply to the query the Transaction Auditor Mr. Mukesh Goel submitted that "In ABS (Audited Balance Sheet) there is free hold land, perusal of the old financial of the company, we have been able to know that land worth Rs. 278.57 Crore was added in BS of FY 2007-08 and Rs. 114.07 Crore was further added in BS of FY 2009-10 with some restriction on transfer of said land. However, the title deeds for the same are not traceable and it is stated that same stand "*carried forward in the balance sheet for further years*" and many other things incidental to the above were also stated but without any satisfactory proof.

(xi) Further in the valuation report furnished by one of the valuers M/s Fintech Valuation, they have informed that "In the Financial Statement for the Year 2019-2020 provided by the IRP Office, "3(a) Note to the Financial Statements for the year ended 31 March 2020", has a mention of Freehold Land with Net Block as on June 30, 2019, amounting to INR Rs. 42,307.37 Lacs, however, no documents have been provided for valuation purpose pertaining to above-mentioned freehold land and the same has been acknowledged by the IRP office vide statement of immovable properties document provided. We have not considered the said Freehold Land in the calculation of Fair Value and Liquidation Value. Fair value & Liquidation Values are subject to change on the availability of documents pertaining to the said Freehold Land.

(xii) On 11.10.2022, after query under Right to Information was submitted by the Resolution Professional, response has been received from Indira Gandhi Nahar department of Govt. of Rajasthan, that they did not allot any

land to Vikas WSP Ltd. Identical communication is received under RTI application as well. It is submitted that since there is contradictory information on the issue are received from different sources, this is a fit case to declare the issue of Land Asset with Vikas WSP as fraudulent issue in terms of Section 66 of the IBC.

(xiii) On 14.10.2022, the Applicant/Resolution Professional, wrote a letter to M/s Walkner Chandiok & Co. who were auditor to the Corporate Debtor during 2007-08 and 2008-09 and called for the documents on the basis of which they added the lands in the balance sheet of the Corporate Debtors.

(xiv) In view of the above, it is clear that the information is camouflaged by the Corporate Debtor with regard to the free hold property and the same has been deliberately concealed in order to defraud the creditors of the Corporate Debtors and hence it is fit case to be adjudicated upon the parameters of the section 66 of the Insolvency and Bankruptcy Code. 2016.

SUBMISSIONS BY THE RESPONDENTS

3. The Application has been opposed by the Respondents by filing their Replies. The defense as taken in the replies and as narrated by the learned counsel for the Respondent are briefly summarised as under:-

Respondent No. 1

(i) Respondent No. 1, Mrs. Bimla Devi, was one of the Directors of the Corporate Debtor. She is a 65-year-old widow residing alone at House No. 123, Vinoba Basti, Sri Ganganagar, Rajasthan, after the demise of her husband, Late Shri B.D. Aggarwal, on 21.09.2020. Having not completed her secondary education and being married into an orthodox Marwari family, she

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was never involved in the day-to-day affairs or management of the Corporate Debtor, which were exclusively handled by her late husband in his capacity as Chairman and Managing Director. She merely signed documents placed before her without independently verifying their contents and had no assigned executive responsibilities. After the demise of her husband, she resigned from the Board of Directors. Consequently, she claims to possess no detailed knowledge of the Company's records, financial statements or affairs. The Application is stated to be based on unfounded allegations while disregarding the findings of the independent Transaction Auditor.

(ii) The Application is stated to be not maintainable, as the essential ingredients of Sections 66(1) and 66(2) of the Insolvency and Bankruptcy Code, 2016 have not been established. No material is stated to have been placed on record identifying the capacity in which Respondent No. 1 functioned, the duties and responsibilities assigned to her, or any fraudulent intent, mens rea or specific fraudulent transaction attributable to her. The Application is further stated to neither identify the person responsible for the alleged fraudulent transactions nor quantify the liability attributable to any particular Director.

(iii) The averments relating to the land referred to in paragraphs 5.1 and 5.2 of the Application are denied as factually incorrect, misconceived and misleading. The transactions are stated to relate to the Financial Years 2007-08 and 2008-09, the particulars whereof are as follows:

S. no.	FY	Land Details	Disclosure on BSE	Encumbrance	Documents
1.	2007-08	Government of Rajasthan has allotted industrial land on November 28, 2007 measuring 93075 square meters (23.25 Acres) to the Company for implementation of its Organic Project at Bikaner.	07.12.2007	SP-360 IGC Khara, Bikaner (allotment later cancelled for the want of RIICO Charges)	Handed over to RP
2.	2007-08	Purchased Agricultural land in Rajasthan measuring 1985 acres.	07.01.2008	Not encumbered anywhere.	Not traced in the company' s record.
3.	2008-09	Purchased Agricultural land measuring 2025 acres in the state of Rajasthan.	19.06.2008	Not encumbered anywhere.	Not traced in the company' s record.
4.	2008-09	Purchased Industrial plot no. SP-82 measuring 33380 square meters at IGC Khara (Bikaner) from RIICO Ltd.	23.06.2008	Encumbered with PNB exclusively.	Handed over to RP

(iv) In the present case, perusal of financials show that the subject land was reflecting in the financials since 2007-08 with certain remarks. Post that there are no changes in the recognition and/or measurement of the said land and the same is continuing till date. This clearly shows that no transactions have happened in this regard. Also, the RP has made all the inquiries and the report of Asset Tracking Agency is also worth noting. No transactions / dealing in this regard have been found in the SRO/Revenue Records etc. and hence when there is not dealing/business relating to the subject land, the

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application of Section 66 does not arise at all. It is further highlighted that the land was acquired much prior to the constitution of the present consortium of lenders and, therefore, no question of defrauding such creditors arises. It will not be out of context to mention that the present consortium of lenders has started lending to the company since 2012 and have renewed/increased the credit facilities. As per the banking practice they have access and privilege of all the information relating to the whereabouts of the assets and financials of the company. Surprisingly they have not created any encumbrance and/or Negative Lien on subject land and it seems that it has been their conscious call to not to do so for the reasons they must be aware of. Their renewal/enhancements of all these years must be containing the reasons for their inaction regarding the subject land which the Respondent No. 1 is not able to bring on record as it was her late husband who was aware of. Summarily, when there are no transactions/dealing with the said land and even when these creditors were not lenders to the company, the preconditions of section 66 are not met with and hence the application deserves to be dismissed.

(v) The Applicant is stated to have selectively relied upon extracts of the Draft Transaction Audit Report while disregarding the conclusions recorded in the Final Transaction Audit Report. The explanations and documents furnished by the suspended Board were duly considered by the Transaction Auditor, who ultimately concluded that no transfer of fixed assets constituted an undervalued transaction under Section 45 of the Code. Although the sale of vehicles amounting to ₹6 lakh had not been reflected in the provisional

unaudited financial statements as on 02.02.2022, the Auditor found that the sale had been effected for adequate consideration and did not qualify as an undervalued transaction.

(vi) With regard to the increase in the raw material consumption ratio, the Final Transaction Audit Report attributes the same to the write-off of obsolete, perishable and unusable raw materials amounting to ₹4,448.14 lakh. Based on the records and explanations examined, no deliberate or intentional act to prejudice the interests of creditors was found, leading to the conclusion that the write-off did not constitute a transaction defrauding creditors under Section 49 of the Code.

(vii) The Final Transaction Audit Report also examined transactions with the related parties, namely Vikas Chemi Gums India Limited and Vikas Proppant and Granite Limited, for the period from 01.04.2019 to 02.02.2022. Upon examination of the available records and disclosures, no fresh advances to the related parties during the audit period were identified. Consequently, the related-party transactions were found not to constitute transactions defrauding creditors under Section 49 of the Code.

(viii) The cash payment of salaries amounting to ₹41.50 lakh is also stated to have been examined in the Final Transaction Audit Report, which records that the payments were genuine and unsupported by any evidence of fraudulent intent or prejudice to creditors. Accordingly, the payments were found not to constitute fraudulent trading or a transaction falling within Section 66 of the Code.

(ix) Every allegation forming the basis of the Application is stated to have been duly explained before the Transaction Auditor through supporting records and documents. The Final Transaction Audit Report ultimately concluded that none of the impugned transactions amounted to fraudulent trading, wrongful trading, undervalued transactions or transactions defrauding creditors. The Applicant is, therefore, stated to have selectively relied upon observations contained in the Draft Transaction Audit Report while ignoring the final conclusions reached by the independent Transaction Auditor.

Respondent No. 3, 4 , 5, 6, 7, 11, 13, 14, 17, 18

(x) Respondent Nos. 3 (Ravi Sharma), 4 (Mahesh Batra), 5 (Rakesh Jindal), 6 (Ram Awtar Mittal), 7 (Kishan Lal), 11 (Neeraj Chhabra), 13 (Anandilal), 14 (Suman Devi), 17 (Vishnudutt), and 18 (Rajinder Pal) have raised substantially identical submissions in response to the allegations made in the Application. It is contended that neither the Application nor the Final Forensic Audit Report contains any specific or general allegation against them. No role has been attributed to any of these Respondents in relation to the alleged preferential, undervalued, fraudulent, or extortionate (PUFE) transactions, and none of the transactions complained of is alleged to have been undertaken with their knowledge, consent, or approval through any Board process.

(xi) The Respondents submit that they were not involved in the day-to-day affairs or management of the Corporate Debtor and did not possess any decision-making authority concerning its business or financial affairs. They state that they neither signed cheques nor executed any document on behalf

of the Corporate Debtor. Further, they were not authorized to access the books of accounts of the Corporate Debtor or to enter into any financial transaction on its behalf. It is also their case that they did not derive any financial benefit or personal gain from the Corporate Debtor.

(xii) The Respondents further rely upon the protection available to Independent Directors under Section 149(12) of the Companies Act, 2013, as well as General Circular No. 1/2020 issued by the Ministry of Corporate Affairs, which clarifies the scope of liability of Independent Directors. Reliance is also placed on the judgment of the Hon'ble Supreme Court in *Ravindranath Bajpe v. Mangalore Special Economic Zone Ltd. & Ors.* (Criminal Appeal Nos. 1047–1048 of 2021, decided on 27 September 2021), wherein it was held that directors cannot be held criminally liable in the absence of specific allegations attributing a particular role to them.

(xiii) It is further submitted that the mere fact that any of the Respondents was a member or Chairman of the Audit Committee or any other committee does not, by itself, fasten any civil or criminal liability upon them. According to the Respondents, no Board resolution or committee resolution was passed with their participation authorizing or approving any of the alleged PUFE transactions. Accordingly, they contend that no case is made out against them in relation to the transactions impugned in the present Application.

Respondent No. 9

(xiv) Respondent No. 9, Ms. Kamini Jindal, has pointed out that the Resolution Professional himself has acknowledged that she did not play any active role in the acquisition of the freehold land, as the land was acquired

during the period 2007–08 to 2009–10, whereas she became a Director only thereafter. Although she served as a Director from 16.07.2015 to 07.12.2021 and held positions including Executive Director (2016–2020) and membership of the Risk Management Committee, Audit Committee and CSR Committee, no specific allegation has been levelled against her in relation to the acquisition of the land. It has further been stated that she was appointed as a Director in 2012, got married in May 2013 and was elected as a Member of the Legislative Assembly in Rajasthan in December 2013, after which she remained occupied with her legislative, family and maternal responsibilities, while the affairs of the Corporate Debtor continued to be managed by her late father until his demise in 2020. She resigned from the Board of Directors on 07.12.2021. On these facts, it has been asserted that she neither participated in nor exercised control over the transactions in question and, consequently, no fraudulent intent can be attributed to her.

(xv) The Resolution Professional has alleged that Respondent No. 9 was serving as an Executive Director when the audited financial statements of the Corporate Debtor for the financial year 2020–21 were signed on 12.08.2021 and that the Independent Auditor's Report recorded examination of the title deeds of the Company's immovable freehold properties. On that basis, an inference has been drawn that the audit of the title deeds would have been undertaken during July–August 2021 while she was serving as an Executive Director.

(xvi) The aforesaid inference has been disputed on the ground that Respondent No. 9 did not sign the financial statements for the financial year

2020–21 and that the assumption regarding the timing of the audit is conjectural and unsupported by any evidence. Having resigned from the Board on 07.12.2021, she has also denied having remained in possession or control of the alleged title deeds thereafter.

Respondent No. 12, 15, 16

(xvii) Respondent Nos. 12, 15 and 16, namely Pawan Singla, Baljinder Singh and Buta Singh, state that they were inducted on the Board of Directors of the Corporate Debtor only immediately prior to the commencement of the Corporate Insolvency Resolution Process (CIRP), whereas the transactions sought to be questioned pertain predominantly to Financial Years 2008-09 and 2009-10, much before their appointment. They claim to have had no role, participation, control or involvement in the affairs of the Corporate Debtor during the relevant period. It is further their case that they were Professional/Non-Executive Directors and not Executive Directors responsible for the day-to-day affairs of the Corporate Debtor. Consequently, no liability can be fastened upon them merely by virtue of their designation as Directors.

(xviii) It has further been asserted that the allegation regarding the non-availability of title deeds is legally untenable, as the inability to trace title documents cannot, by itself, constitute fraudulent trading under Section 66 of the Insolvency and Bankruptcy Code, 2016.

(xix) Reliance has also been placed on the Final Transaction Audit Report, which, according to the Respondents, exonerates the impugned transactions by concluding that the sale of vehicles, write-off of obsolete raw material,

related-party transactions and cash salary payments did not constitute undervalued, fraudulent or creditor-defrauding transactions. It has, therefore, been asserted that the Resolution Professional cannot selectively rely upon observations contained in the Draft Transaction Audit Report while disregarding the findings recorded in the Final Report.

(xx) It has further been contended that mere designation as Directors does not attract liability under Section 66 of the Code in the absence of specific allegations establishing their individual role, participation, knowledge or intention. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in *NCT of Delhi v. Rajiv Khurana,* AIR 2010 SC 2986, wherein it was held that directors cannot be presumed to be responsible for the affairs of the company in the absence of specific allegations regarding their role and responsibility.

(xxi) It has also been stated that no forensic evidence has been produced to establish fraud, wrongful enrichment or conscious participation on their part. On the contrary, they claim to have cooperated throughout the CIRP and transaction audit proceedings by furnishing all available records, documents and explanations, including their reply dated 17.05.2023.

(xxii) Lastly, it has been asserted that the financial and operational decline of the Corporate Debtor occurred after the demise of the erstwhile Managing Director, Shri B.D. Aggarwal, who was managing the affairs of the Company. Their association with the Corporate Debtor was brief and subsequent to the transactions now under challenge. Accordingly, in the absence of any material establishing their individual involvement in the alleged fraudulent

transactions, the Application is stated to be liable to be dismissed qua Respondent Nos. 12, 15 and 16.

(xxiii) Lastly, all the Respondents have asserted that the essential ingredient for invoking Section 66 of the Insolvency and Bankruptcy Code, 2016, namely, an intention to defraud creditors or to carry on the business of the Corporate Debtor for a fraudulent purpose, is absent in the present case. According to them, the Application fails to disclose any material establishing fraudulent intent, conscious participation or wrongful gain attributable to the respective Respondents and, therefore, does not satisfy the statutory requirements for invoking Section 66 of the Code.

REJOINDER BY APPLICANT

4. The Applicant (RP) has filed a Rejoinder to the replies filed by the Respondents. The submissions made therein are briefly summarised as under:

(i) The Applicant submits that the defence of Respondent No. 1 that she was merely a nominal Director with no role in the affairs of the Corporate Debtor is wholly contrary to the documentary record. Respondent No. 1 remained a Director from 10.06.2005 to 10.12.2021 and was a Promoter of the Company. Following the demise of Late Shri B.D. Aggarwal on 21.09.2020, she was appointed as Executive Director, was proposed to be appointed as Managing Director for the period 01.10.2021 to 30.09.2026, served as a member of the CSR Committee and Risk Management Committee, and issued the notice convening the 33rd AGM as the Chairperson of the Board.

(ii) Her active participation in the management of the Company is further evident from the Minutes of the AGMs dated 26.09.2008 and 28.09.2010 and

the Extra Ordinary General Meeting dated 12.06.2010, wherein she participated in key corporate decisions. She also filed a Form C claim dated 15.02.2022 claiming ₹9,13,63,089/- allegedly advanced by her to the Corporate Debtor, demonstrating her financial involvement with the Company. Further, Form DIR-8 dated 07.09.2021 discloses that she held directorships in four other companies, evidencing her experience and awareness of corporate affairs.

(iii) The plea that she merely signed documents without understanding them or had no role in the Company's management is therefore untenable. Even after the demise of Late Shri B.D. Aggarwal, she continued as Executive Director, independently executed statutory documents, chaired the 33rd AGM, and discharged managerial functions until her resignation on 10.12.2021. Consequently, her assertion that she was unaware of the affairs, records or financial statements of the Corporate Debtor is wholly belied by the contemporaneous record.

(iv) The contention that Respondent No. 1 is an illiterate lady is equally false. The Revised Annual Report, signed by her, records at Pages 13 and 43 that she holds a "Bachelor's Degree in Commerce", which directly contradicts her averment that she had not even completed her secondary schooling. These contradictory statements, made on oath in the face of her own statutory disclosures, completely undermine the credibility of her defence.

(v) The Applicant further submits that Respondent No. 1 herself signed the audited financial statements of the Corporate Debtor for the financial year 2020-21 on 12.08.2021 jointly with Respondent No. 12, Mr. Pawan Singla.

The statutory auditors, in Annexure A to the Independent Auditor's Report, specifically recorded as under:

> *" i. in respect of company's fixed assets:*
>
> *(a) The Company has maintained proper records showing full particulars, including quantitative details and situation of property, plant and equipment.*
>
> *(b) The Company has a program of verification to cover all the items of fixed assets in a phased manner which, in our opinion, is reasonable having regard to the size of the Company and the nature of its assets. Pursuant to the program, certain fixed assets were physically verified by the management during the year. According to the information and explanations given to us, no material discrepancies were noticed on such verification.*
>
> *(c) According to the information and explanations given to us and the records examined by us and based on the examination of the registered sale deed / conveyance deed produced before us, we report that, the title deeds, comprising all the immovable properties of land which are freehold, are held in the name of the Company as at the balance sheet date."*

(vi) During CIRP, the Applicant sought clarification from the statutory auditors, M/s A.K. Chadda & Co., Chartered Accountants, who, vide letter dated 05.07.2023, confirmed that freehold land valued at ₹42,312.89 lakhs had continuously appeared in the audited financial statements of the Company and that during the audit for FY 2020-21, the management had produced the fixed asset register together with the original title deeds for examination. The auditors categorically stated:

> *"During the course of audit of the financial statements for Financial Years 2020-21, fixed assets register alongside the title deeds of those freehold properties have been produced before us by the management. We had gone through such information and documents and relying upon the audited financial statements for previous financial years and considering the fact that no transactions have been incurred during the financial year 2020-21, we had given unmodified opinion on the same in paragraph (i) (c) of Annexure 1 to our Independent Auditor's Report which is reproduced as under-*

> *'(i) (c) According to the information and explanations given to us and the records examined by us and based on the examination of the registered sale deed / conveyance deed produced before us, we report that, the title deeds, comprising all the immovable properties of land which are freehold, are held in the name of the Company as at the balance sheet date.'*

(vii) Similarly, the previous statutory auditors, M/s S. Prakash Aggarwal & Co., vide letter dated 28.08.2023, confirmed that the freehold land valued at ₹432.07 crores appeared as the opening balance in the books of account as on 01.04.2015 and further stated:

> "We state that the above land Rs. 432.07 appeared as opening balance as on 1.4.2015 in books of account of the company. We checked it with original relevant document as produced by management. After examine of the documents we return back to management."

(viii) The aforesaid communications conclusively establish that the original sale deeds and conveyance deeds of the Company's freehold agricultural lands were repeatedly produced by the management before successive statutory auditors during the audits for FY 2015-16 to FY 2020-21. The audit report dated 12.08.2021 clearly demonstrates that the original title deeds were available with the management immediately before commencement of the Corporate Insolvency Resolution Process on 02.02.2022.

(ix) In these circumstances, the stand taken by Respondent No. 1 that the title deeds of the three parcels of freehold agricultural land are "not traceable" is wholly untenable. The documentary evidence unequivocally establishes that the original title deeds were admittedly available with the management and were produced before the statutory auditors only a few months before commencement of CIRP. Nevertheless, neither the original title deeds nor possession of the said properties was handed over to the Resolution

Professional after initiation of CIRP. Even the particulars of these valuable properties were not disclosed to the Resolution Professional. The plea that the documents are not traceable is therefore demonstrably false and is liable to be rejected, warranting an adverse inference against the Respondents for withholding the records and assets of the Corporate Debtor.

(x) Upon perusal of the 20th Annual Report for FY 2007–08, it is evident that Respondent No. 3, Mr. Ravi Sharma, was serving as a Non-Executive Independent Director and Chairperson of the Audit Committee and as per the 22nd Annual Report for FY 2009–10, Respondent No. 5, Mr. Rakesh Jindal, was serving as a Non-Executive Independent Director and Member of the Audit Committee of the Corporate Debtor. The Annual Reports further establish that Respondent No. 5 served as an Independent Director from FY 2007–08 to FY 2009–10. By virtue of their positions in the Audit Committee, both Respondents had access to the Company's financial statements, audit reports, books of account, transactions, loans and other financial records and were entrusted with oversight of the Company's financial reporting and internal control mechanisms. Consequently, their plea that they were unaware of the affairs, financial records or working of the Corporate Debtor is wholly untenable.

(xi) Despite occupying such sensitive positions, Respondent Nos. 3 and 5 continued to function as Independent Directors and members of the Audit Committee without reporting the financial irregularities to the Board or any regulatory authority or resigning from their offices. Their continued association with the Corporate Debtor despite the existing financial

irregularities demonstrates their knowledge of the affairs of the Company and raises a serious inference that they acted in connivance with the other directors in permitting the fraudulent transactions, thereby causing wrongful loss to the Corporate Debtor and its creditors while facilitating wrongful gain to the persons involved. Such conduct also constitutes a failure to discharge the duties expected of Independent Directors under Schedule IV of the Companies Act, 2013.

(xii) The Applicant submits that Respondent No. 9, Ms. Kamini Jindal, remained a Director of the Corporate Debtor from 16.07.2012 to 07.12.2021, i.e., for more than nine years. She is the daughter of Late Shri B.D. Aggarwal, the erstwhile Promoter and Managing Director, and Mrs. Bimla Devi, Promoter and Executive Director of the Company. As recorded in the Notice dated 07.09.2021 for convening the 33rd Annual General Meeting, Respondent No. 9 was serving as the Executive Director and was also a Member of the Audit Committee as well as Chairperson/Member of the Risk Management Committee. These positions entrusted her with significant governance responsibilities and provided her access to the Company's financial statements, records and other material information. In view of the aforesaid, the plea of Respondent No. 9 that she was unaware of the affairs or working of the Corporate Debtor is wholly untenable. Even after the demise of Late Shri B.D. Aggarwal on 21.09.2020, she continued to serve as Executive Director for more than one year until her resignation on 07.12.2021. During this period, she continued to discharge important managerial responsibilities and remained a Member of the Audit Committee and Chairperson/Member of

the Risk Management Committee. Her continued association with the management of the Company demonstrates that she was fully aware of the Company's affairs, financial statements, records and other corporate information and cannot disclaim responsibility for the acts and omissions committed during her tenure.

(xiii) Respondent No. 12, Mr. Pawan Singla, was appointed as a Director of the Corporate Debtor on 12.10.2020 and continues to hold office. As recorded in the Notice dated 07.09.2021 for convening the 33rd Annual General Meeting, he was designated as the Executive Director and was also a member of the Stakeholder Relationship Committee, Corporate Social Responsibility Committee and Risk Management Committee. Further, Respondent No. 12, jointly with Respondent No. 1, Mrs. Bimla Devi, signed the audited financial statements of the Company for FY 2020–21 on 12.08.2021. By virtue of these positions and responsibilities, Respondent No. 12 had access to and was fully aware of the Company's financial statements, records and affairs. Accordingly, his plea that he was unaware of the working or affairs of the Corporate Debtor is wholly untenable.

(xiv) Respondent No. 15, Mr. Baljinder Singh, was appointed as a Director on 10.12.2021, while Respondent No. 16, Mr. Buta Singh, was appointed as a Director on 07.12.2021, and both continue to hold office. Being Directors of the Corporate Debtor, Respondent Nos. 15 and 16 were entrusted with statutory and fiduciary responsibilities and had access to the Company's records and affairs. Consequently, their plea that they were unaware of the

information, documents, financial statements, data or other records of the Corporate Debtor is equally untenable.

(xv) Respondent Nos. 13, 14, 17 and 18, namely Anandi Lal, Suman Devi, Vishnu Dutt and Rajinder Pal, were appointed as Independent Directors of the Corporate Debtor in 2021 and continue to hold office. By virtue of their positions, they had access to the Company's transactions, audited financial statements, books of account, loans, balance sheets and other financial records. Accordingly, their plea that they were unaware of the affairs, working or financial records of the Corporate Debtor is wholly untenable, as they were entrusted with significant governance and oversight responsibilities as Independent Directors. Respondent Nos. 13, 14, 17 and 18 failed to discharge the duties expected of Independent Directors under Schedule IV of the Companies Act, 2013. Despite having access to the Company's affairs and financial records, they failed to exercise due diligence or report the alleged financial irregularities to the Board or the appropriate regulatory authorities. Their continued association with the management despite such irregularities raises a serious inference of connivance with the other directors in facilitating the fraudulent transactions, thereby causing wrongful loss to the Corporate Debtor and its creditors while enabling wrongful gain to the persons involved.

ANALYSIS AND FINDINGS

5. We have considered the submissions made by the Learned Counsels of Applicant as well as the Respondents and have gone through the material available on record carefully, along with the extant provisions of the Code and the settled position of law on the subject issue.

6. We have heard the learned counsel for the parties and perused the material placed on record. The present Application has been filed under Section 66(1) of the Insolvency and Bankruptcy Code, 2016 seeking directions against the erstwhile management and certain directors of the Corporate Debtor on the allegation that the business of the Corporate Debtor was carried on with an intent to defraud its creditors.

7. Section 66(1) of the Code empowers the Adjudicating Authority to pass appropriate orders only where it is satisfied that the business of the Corporate Debtor has been carried on with an intent to defraud creditors or for any fraudulent purpose. Thus, the jurisdiction under Section 66 is not attracted merely because there are accounting discrepancies, missing records, commercial losses, irregularities in maintenance of books or suspicious transactions. The provision requires the Resolution Professional to establish, on the basis of cogent evidence, a deliberate fraudulent design coupled with an intention to defraud creditors. The burden of proving such fraudulent intent lies squarely upon the Applicant.

8. The allegations in the present Application substantially rest upon four circumstances, namely: (i) the alleged disappearance of freehold land valued at ₹423.07 Crores; (ii) the write-off of inventories and increase in raw material consumption; (iii) advances made to related parties; and (iv) certain miscellaneous transactions including transfer of vehicle, cash payment of salaries and transfer of ₹17.24 lakhs to Respondent No.1.

9. At the outset, it is pertinent to note that the Applicant has founded the present proceedings primarily upon observations recorded in the Draft Transaction Audit Report. However, admittedly the Final Transaction Audit Report, prepared by the

same independent Transaction Auditor after considering explanations and documents furnished by the management, does not return any adverse finding holding that the impugned transactions constitute fraudulent trading, wrongful trading, undervalued transactions or transactions defrauding creditors. The Resolution Professional has attempted to disregard the final conclusions on the premise that the auditor failed to satisfactorily explain the departure from the draft report. Merely because the Resolution Professional disagrees with the final opinion of the Transaction Auditor cannot by itself constitute evidence of fraud. Once an independent expert has rendered his final opinion after considering the material available, the draft observations lose their independent evidentiary value unless the Applicant is able to establish, through independent evidence, that the final report is demonstrably incorrect or mala fide. No such material has been produced before this Tribunal.

10. Insofar as the issue relating to the freehold land is concerned, the material on record shows that the acquisition of land was made during the FYs 2007-08 to 2009-10 and since then are being reflected in the financial statements of the Corporate Debtor continuously till the initiation of CIRP. There is no allegation or evidence that any transfer, sale, alienation or encumbrance of the said land was created during the look-back period contemplated under Section 66. The grievance of the Resolution Professional is essentially that the original title deeds could not be traced during CIRP despite the land continuing to appear in the balance sheet.

11. The Applicant has relied upon communications received from statutory auditors stating that original title deeds had been produced before them during audit of the financial statements for FY 2020-21. On the other hand, the

Respondents contend that the land continued to remain reflected in the books whereas no evidence of its existence has been discovered despite inquiries conducted by the Resolution Professional and the asset tracing agency. Even the valuation report merely records that valuation could not be undertaken in the absence of documents. Likewise, the reply received under the Right to Information Act only states that a particular department had not allotted land to the Company. Such material may raise questions regarding maintenance and custody of records; however, it falls considerably short of establishing that the business of the Corporate Debtor was carried on with an intent to defraud creditors. Section 66 cannot be invoked merely because title deeds are unavailable or because the whereabouts of an asset are uncertain in the absence of evidence showing deliberate diversion or fraudulent dealing.

12. Equally, the observations regarding abnormal raw material consumption and write-off of obsolete inventory cannot, by themselves, satisfy the requirements of Section 66. The Final Transaction Audit Report records that the write-off pertained to obsolete and unusable raw material and that no material was found indicating deliberate reduction of the assets of the Corporate Debtor for the purpose of defeating creditors. The Applicant has not produced any contrary technical or forensic evidence demonstrating that the inventories were in fact available, diverted or misappropriated. Mere abnormal accounting ratios or commercial imprudence cannot automatically be equated with fraudulent trading.

13. The allegation concerning advances of ₹6,455.66 lakhs to related parties also does not satisfy the statutory threshold under Section 66. The Final Transaction Audit Report records that no fresh advances were made during the audit period and

that the balances represented existing advances reflected in the books. No material has been produced to establish that such advances were intentionally granted or retained with a fraudulent object of defeating the interests of creditors during the relevant period. The mere existence of outstanding advances to related parties, without proof of fraudulent intent or dishonest design, cannot attract Section 66.

14. Similar is the position regarding the sale of vehicle, cash payment of salaries and transfer of ₹17.24 lakhs to Respondent No.1. The Transaction Auditor ultimately concluded that no material existed to treat these transactions as fraudulent or undervalued. Apart from relying upon preliminary observations contained in the draft report, no independent evidence has been brought on record demonstrating that these transactions were sham, fictitious or intended to prejudice creditors.

15. The Applicant has also sought to attribute liability to various Directors including Independent Directors on the ground that they occupied positions in the Audit Committee, Risk Management Committee or other Board Committees and therefore must be presumed to have knowledge of the affairs of the Company. We are unable to accept such a broad proposition. Section 66 does not create vicarious liability merely because a person happened to be a Director. Liability under Section 66 is personal in nature and requires proof that the concerned person knowingly participated in carrying on the business of the Corporate Debtor with an intent to defraud creditors. Mere designation as a Director, Executive Director or Independent Director, without specific evidence of participation in the alleged fraudulent conduct, is insufficient.

16. In respect of Respondent No.1 and Respondent No.9, the Applicant has sought to demonstrate their active involvement by referring to their appointment as Executive Director, participation in meetings, signing of financial statements and other corporate documents. These circumstances may establish that they were associated with the management of the Company. However, the Applicant has not established which particular fraudulent transaction was undertaken by Respondent No. 1 or Respondent No. 9 with an intention to defraud creditors or what specific benefit accrued to them therefrom. The requirement under Section 66 is not merely participation in management but participation in fraudulent trading with the requisite fraudulent intent.

17. Likewise, insofar as Respondent Nos. 3, 5, 12, 13, 14, 15, 16, 17 and 18 are concerned, the Applicant has primarily relied upon their positions as Directors, members of Audit Committee or other governance committees and their alleged access to financial information. Such circumstances, without more, cannot establish conscious participation in fraudulent trading. The Application does not identify any specific decision, Board resolution, transaction or act attributable individually to these Respondents demonstrating that they knowingly carried on the business of the Corporate Debtor with intent to defraud creditors.

18. The rejoinder filed by the Applicant seeks to controvert the factual assertions made by the Respondents regarding their role and educational qualifications. However, even assuming such rebuttal to be correct, it does not bridge the fundamental deficiency in the Application, namely the absence of cogent evidence establishing fraudulent intent as required under Section 66 of the Code.

19. The issue as regards the freehold land has also been the subject matter of detailed adjudication in IA(I.B.C.) No. 764(CH)/2022 filed under Section 19(2) of the Code, wherein not only the suspended directors but also all successive statutory auditors of the Corporate Debtor were impleaded. During the pendency of those proceedings, this Tribunal issued a series of directions requiring the Resolution Professional, the suspended management, the statutory auditors, the consortium banks for ascertaining the existence of the said freehold land valued at approximately ₹423.07 crores. The Resolution Professional appointed an Asset Tracing Agency, examined historical bank records, sought information under the Right to Information Act, obtained records from statutory authorities and even relied upon documents subsequently received from the Central Bureau of Investigation. Despite these exhaustive efforts extending over several years, neither the land nor any reliable documentary evidence as regards its existence and whereabouts could be traced. The proceedings ultimately did not yield any conclusive material demonstrating diversion, alienation or fraudulent dealing with the alleged asset. A detailed order of even date in this regard is passed by this Tribunal in that matter. As such, in the absence of cogent evidence establishing the very existence of the asset or any fraudulent transaction relating thereto, the mere inability to trace the land or its title deeds cannot, by itself, justify drawing an adverse inference of fraudulent trading against the Respondents under Section 66(1) of the Code.

20. It is well settled that proceedings under Section 66 are quasi-penal in nature and cannot be sustained on the basis of suspicion, conjectures or inferences arising merely from accounting discrepancies. Fraud must be specifically pleaded and proved through convincing evidence demonstrating dishonest intention and

conscious participation in carrying on the business of the Corporate Debtor for a fraudulent purpose. The material placed before this Tribunal does not satisfy this statutory standard.

CONCLUSION

21. Having considered the submissions made by the Learned Counsels for parties and the documents placed on record, we are of the considered opinion that the Applicant has failed to establish that the business of the Corporate Debtor was carried on with an intent to defraud creditors or for any fraudulent purpose within the meaning of Section 66(1) of the Code. The allegations primarily rest upon the non-availability of documents, accounting irregularities and preliminary observations contained in the Draft Transaction Audit Report, none of which, in the facts of the present case, constitute sufficient proof of fraudulent trading. The essential ingredient of fraudulent intent, which is the sine qua non for invoking Section 66, remains unproved. Accordingly, no directions under Section 66 of the Insolvency and Bankruptcy Code, 2016 can be issued against any of the Respondents.

22. Accordingly, IA(I.B.C.)/1537(CH)2022 in CP(IB)No. 315/Chd/Hry/2019 is **dismissed** and **disposed of**.

Sd/-
Khetrabasi Biswal
Member (Judicial)
Inderjeet

Sd/-
Kaushalendra Kumar Singh
Member (Technical)

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