IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Company Application No. 257 of 2025
IN
Company Petition No. 3638/ (MB) of 2018

Company Application for impleadment of Respondents in Company Petition

Union of India,
Ministry of Corporate Affairs,
through the Regional Director, Western Region,
having its office at 5th Floor, Everest Building,
100 Marine Lines, Mumbai – 400 001 ... **Applicant**

V E R S U S

Mr. Sanjiv Rai,
having its residential address at
Flat No. AR/01/906A, Aralias Golf Course Road,
Sector-55, Gurgaon, Haryana-122 001
Email: raisanjiv@gmail.com ... **Respondent No. 1**

Mr. Rajiv Banga,
having its residential address at
Ppk023, DLF Park Place, DLF Phase 5,
Sector 54, Golf Course Road, Gurgaon,
Haryana – 122 001
Email: rajiv.banga@ilfsindia.com ... **Respondent No. 2**

Mr. Jagdish Aggarwal
having his residential address at F-2603,

Palam Vihar, Near Global Foyer Mall,
Choma (62), Gurgaon, Haryana-122 017
Email: jagdishpa57@gmail.com … **Respondent No. 3**

NKC Projects Private Limited
having its registered office at Unit No. 154,
Vardhman Crown Mall, Plot No. 2,
Sector-19 Dwarka, New Delhi -110075, India
Email: compliance@nkcproject.com … **Respondent No. 4**

Mr. Naresh Kumar,
having his residential address at : A-506,
Sujjan Vihar, Sector 43, Gurgaon 122 002
Email: info@nkcproject.com … **Respondent No. 5**

NKG Infrastructure Limited
having its registered office at 204,
Kailash Building, 26, K. G. Marg,
New Delhi, Delhi – 110 001, India
Email: cs@nkginfra.com … **Respondent No. 6**

Mr. Pradeep Kumar Garg,
having its residential address at
6, Todal Mal Lane, Bengali Market,

New Delhi-110 001.

Also at 207, Kailash Building,

26, K. G. Marg, New Delhi-110 001

Email: nkg@nkginfra.com … **Respondent No. 7**

Ethical Constructions Private Limited,

having its registered office at

KC-98, Ashok Vihar, Phase 1, New Delhi

110 052, Delhi North West, India

Email: accounts@eiplin.com

… **Respondent No. 8**

Mr. Sorabh Chopra,

having its residential address at

PND052, The Pinnacle, DLF,

Gurgaon Haryana 122 002

A-26/12 8, FF01, DLF City Phase 1,

Sikanderpur Ghosi (68),

Gurgaon, Haryana-122002.

Email: sorabh@eiplin.com … **Respondent No. 9**

Mr. Rohit Ahuja,

having its residential address at

99 Moulsari Avenue, DLF City Phase 111,

Gurgaon, 122002, Haryana

Email: accounts@eiplin.com … **Respondent No. 10**

Silverpoint Infratech Limited,
having its registered office at Ananta Bhavan,
94 Vivekanad Nagar, P. Opodrah,
Andul Road, Near Westbank Hospital,
3rd Flr, R. No. 301, Howrah – 711 109
Email: info@silverpointinfratech.com … **Respondent No. 11**

Mr. Sanjay Kumar Drolia,
having its residential address at
Tulsi Dham, Flat No.- 5D, 48- 7 Jessore Road,
Bangur Avenue, Kolkata -700 055, West Bengal
Email: sanjaykumardrolia@gmail.com … **Respondent No. 12**

Prathyusha Resources & Infra Private Limited,
having its registered office at
Door No. 25/40/12, Gangula Vari Street,
Near Laxmi Talkies, Visakhapatnam,
Andhra Pradesh, India – 530 001
Email: vs.suresh@prathyushagroup.com … **Respondent No. 13**

Mr. Raja Rao Parachuri,
having its residential address at
Villa 1, Amara Samuthra, 4/211,
MGR Road, Palavakkam Tiruyanmiyur,

Sholinganallur, Kancheepuram, 600 041,
Tamil Nadu
Email: vs.suresh@prathyushagroup.com … **Respondent No. 14**

ARS Infrastructure Pvt. Ltd.,
having its registered office at
Plot No. 38, Sector A Zone, Dmancheswar
Indl Estate, Bhabhaneshwar, Khurda,
Orissa – 751 010
Email: cs@arssgroup.in … **Respondent No. 15**

Mr. Rajesh Aggarwal,
having its residential address at
V.I.P. Colony, Plot No 157, Irc Village,
Nayapalli, Bhubaneswar, Odisha 751015
Email: rajesh@arssgroup.in … **Respondent No. 16**

Suryamukhi Projects Private Limited,
having its registered office at 1 A,
Grant Lane Room No. 114, Kolkata,
West Bengal - 700012, India
Email: nightangle01@yahoo.co.in … **Respondent No. 17**

Mr. Pramod Sharma,

having its residential address at
85, Rajarhat Gopalpurprafulla Kanan,
24pgs (N), Kolkata, 700101, West Bengal
Email: pramodsharma862@gmail.com … **Respondent No. 18**

Mr. Pulak Bagchi,
having its residential address at
Sagarka Apptt. Block-AB-315, Old G. T. Road,
Bally, Howrah, 711201, West Bengal, India
Email: navinitr@rediffmail.com … **Respondent No. 19**

AMR India Limited,
having its registered office at
Saikrupa, D.No. 8-3-833, Plot No. 37 & 38,
Phase-I, Kamalapuri Colony, Hyderabad,
Telangana – 500 073, India
Email: venkata.cs@amrgroup.in … **Respondent No. 20**

Mr. A Mahesh Reddy,
having its residential address at
Plot No. 708, Road No. 25,
Near Obulesu School, Jubilee Hills, Hyderabad,
500 033
Email: amr@amrgroup.in … **Respondent No. 21**

Divyanshi Infraprojects Limited,
having its registered office at
7, Ganesh Chandra Avenue, Kolkata,
West Bengal – 700 001, India
Email: divyanshinfra@gmail.com … **Respondent No. 22**

Mr. Pramod Kumar Mandholia,
having its residential address at
64, Mzaffar Ahmed Street Kolkata,
700 016, West Bengal
Email: divyanshinfra@gmail.com … **Respondent No. 23**

Mr. Ankit Kumar Agarwal,
having its residential address at
Harmu Road Kishorganj Chowk,
Ps Sukhdevnagar, Ranchi, 834001, Jharkhand
Email: divyanshinfra@gmail.com … **Respondent No. 24**

Mr. Manish Kumar,
having its residential address at
43, Jublee Park, Tollygunge, Kolkata,
700 033, West Bengal
Email: divyanshinfra@gmail.com … **Respondent No. 25**

Sagar Infra Rail International Limited,
having its registered office at B-67,
Paid Balanagar, Hyderabad, Telangana, India
Email: rammohanrao@siril.in … **Respondent No. 26**

Mr. Udayananda Reddy Kondapali,
having its residential address at
85, Green Avenues Opp Bhavya's Anandam,
Nizampet Road, Nizampet, Rangareddy,
500090, Telangana
Email: rammohanrao@siril.in … **Respondent No. 27**

SRKK Advisors Private Limited,
having its registered office at
D 828, New Friends Colony, New Delhi,
Delhi, India 110 065
Email: raisanjiv@gmail.com … **Respondent No. 28**

George Cherian,
having its residential address at
A 1102 Brigade Caladium,
Dasarahalli Main Road, Hebbal,
Bangalore 560 024
Email: georgecher@hotmail.com … **Respondent No. 29**

Dilip Bhatia,
having its residential address at
1601, Supreme 19, 3rd Cross Lane,
Lokhandwala, Mumbai - 400 053
Email: dilip.bhatia@ilfsindia.com … **Respondent No. 30**

Deep Sen,
having its residential address at
4/3k/150 Ho Chi Min Sarani;
Shakuntala Park, Kolkata - 700061
Email: Email: sen.deep@gmail.com … **Respondent No. 31**

K Ramchand,
having its residential address at
31, Victoria Apartment, Sarojini Road,
Santacruz (west), Mumbai - 400 054
Email: Karunakaran.ramchand@gmail.com … **Respondent No. 32**

Mukund Sapre,
having its residential address at
Bhoomi Aura, 15th Road, Khar (West),
Mumbai, Maharashtra – 400 052
Email: mukundsapre@hotmail.com … **Respondent No. 33**

IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Company Application No. 257 of 2025 IN Company Petition No. 3638 (MB) of 2018
Union of India…vs…Sanjiv Rai and Ors.

In that matter of

UNION OF INDIA **… Original Petitioner**

v e r s u s

IL&FS & Ors.

… Original Respondents

Order delivered on 22.10.2026

CORAM:

Shri Prabhat Kumar
Hon'ble Member (Technical)

Shri Sushil Mahadeorao Kochey
Hon'ble Member (Judicial)

Appearances:

For the Applicant	**:**	Mr. Aditya Sikka a/w Ms. Onshi Jakhar, Ms. Yuganshi Singh and Adv. Supriyo Gole, Advocates and Advocate Gaurav Jaiswal
For the Respondent 1	**:**	Advocate Sandeep Devashish Das, Advocate Mehak Khurana and Advocate Surabhi Agrawal
For the Respondent 2	**:**	Adv. Piyush Joshi a/w Adv. Sumit Yadava, Adv. Vatsla Bhatia, Adv. Akshay Sharma, Adv. Aarshia Shantharam, Adv. Saikiran M.
For Respondents 4 & 5:		Adv. Disha Shah
For the Respondent 29:		Adv. Devyani Singh & Adv. Yash Jain i/b

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Halai & Co.

For the Respondent 30: Adv. Pulkit Sharma a/w Adv. Naina Borsate & Adv. Divya Nakrani

For Respondents 6 & 7: Ms. Srija Singh a/w Ms. Rutuja Khade

For the Respondent 32: Mr. Varun Satiya a/w Mr. Nikhat Chaudhary

For the Respondent 33: Adv. Amit Dubey a/w Adv. Nikita Motwani

O R D E R

Per : CORAM

1) The present Company Application is filed by the Applicant/Union of India seeking an Order from this Tribunal for extension of orders dt. 03.12.2018, as modified by order dt. 16.01.2019, passed by this Tribunal, and for the impleadment of additional Respondent Nos. 1 to 33 to effectively seek reliefs on the basis of the findings of the investigation carried out by the Serious Fraud Investigation Office ("SFIO") into the affairs of IL&FS Rail Limited ("IRL"), specialized subsidiary of ITNL and a step-down subsidiary of IL&FS, and its subsidiaries with the specific mandate of developing urban and inter-urban mass transport infrastructure projects.

2) The present Company Application arises out of and is in respect of the findings of fraudulent conduct of business in the affairs of

IL&FS Rail Ltd. and its Subsidiaries, Rapid Metro Gurgaon Ltd. and Rapid Metro Gurgaon South Ltd., as set out in the SFIO's investigation Report dt. 05.12.2023.

3) The brief facts leading to the case in hands are as follows:

i. In or about 2018, a series of defaults by IL&FS Ltd., and its subsidiaries/group companies threatened to collapse the money markets of the Country and cause widespread instability. The Department of Economic Affairs thus, requested the Ministry of Corporate Affairs to take urgent action. Accordingly, the Applicant directed the Serious Fraud Investigation Office to investigate into the affairs of IL&FS Ltd. and its subsidiaries vide Order dt. 30.09.2018.

ii. Parallelly, on or about 01.10.2018, the Applicant/Union of India filed the Company Petition bearing CP No. 3638 of 2018 seeking interim relief of suspension of the then existing Board of Directors of IL&FS and appointment of a new Board of Directors in place and stead thereof.

iii. As requested by the Applicant herein, on 30.11.2018, SFIO submitted the Interim Report in respect of IL&FS and its subsidiaries including IRL. On the basis of that Report, the Applicant filed Applications before this Tribunal seeking (i) impleadment of various parties including the Directors who were on the Committee of Directors and key managerial personnel of IL&FS and its subsidiaries; and (ii) interim relief restraining the Respondents therein from mortgaging or creating charge or lien or third-party interest or in any way alienating, their movable and immovable assets.

iv. This Tribunal vide Order dt. 03.12.2018, froze the assets and properties of Respondents thereto. Later, the Order dt. 03.12.2018 was modified by an Order dt. 16.01.2019 vide which Respondents to CP 3638 of 2018 were allowed to withdraw a sum of INR 2,00,000/- per month from their bank accounts.

v. SFIO also investigated the conduct of business of IRL, being a specialised subsidiary of ITNL and a step-down subsidiary of

IL&FS Ltd. The Investigation in respect of IRL culminated in the IRL Investigation Report. On the basis of the Report, the Applicant received directions vide Letter dt. 06.03.2024 to file the present Application in respect of entities and persons charged under Section 447 of the Companies Act, 2013 and Sections 420 & 120B of the IPC. Accordingly, the present Application is filed.

4) The brief summary of findings contained in the IRL Investigation Report is as under:

i. The Applicant submits that the IRL Investigation Report found that the affairs of the Company had been carried on for a fraudulent purpose which resulted in considerable losses to the Company and its Creditors. The Investigation Report contained findings pertaining largely to the development of the Rapid Metro project in Gurugram, which was a project secured from Haryana Urban Development Authority (now known as Haryana Shehri Vikas Pradhikaran) and housed in RMGL & RMGSL.

ii. It is submitted that the first instance of fraud captured in the IRL Investigation Report pertains to the practice of IRL & ITNL of layering contracts through the back-to-back arrangement between IRL/ITNL and the SPVs. It is further submitted that the Development Agreements executed under this Arrangement by RMGL and RMGSL were primarily used to spruce up the financials of IRL & ITNL by reflecting them on the books of the Companies, with the Companies charging arbitrary project management/project development fees. It is also submitted that IRL awarded bogus work orders to 10 third-party entities, resulting in a loss of approx. INR 98 crores to IRL on account of these work orders, given that (i) the process of awarding the work orders was in contravention of SOPs of the IL&FS Group and marred by glaring discrepancies, including the fact that the works in question were HUDA/HSVP's contractual obligations to perform; (ii) payments were made on the basis of false and fabricated invoices and without any verification of works; and (iii) the

trail of funds showed the layering of monies across multiple entities which did not execute any works.

iii. Personal Enrichment of **Sh. Sanjiv Rai** (MD, IRL) – It is submitted that this instance of fraud set out in the IRL Investigation Report was in respect of the unjust personal enrichment of Respondent No. 1 as a result of excess remuneration paid to him in contravention of the provisions of the Act. After the recovery of the excess amounts so paid, he, along with Respondent No. 28 (an entity owned by him), entered into two advisory agreements with ITNL for an aggregate consideration of INR 3 crores each. However, the investigation found that the said agreements, as well as the works purportedly performed under them, were vague and without verification, and further that the agreements had in fact been entered into without any approval from the Board or any other committee.

5) It is submitted that the IRL Investigation Report, as well as the pleadings in the present Application, also highlight that the

collective impact of these instances of fraudulent conduct on the company amounted to causing intentional losses to the company in order to either artificially inflate the financials of ITNL or to benefit KMPs and third parties under the guise of genuine consultancy or contracting agreements. Investigation into these transactions and agreements further revealed that, in many cases, no work was done, and in certain instances involving Project Development Fees (PDF), Project Management Fees ("PMF") charged by ITNL and IRL, the work was duplicated and passed off as undertaken by ITNL and IRL to justify the arbitrary PDF/PMG charges.

6) In view of the aforesaid findings of the IRL Investigation Report, the Respondents to the present Application were charged under Section 447 of the Act for their role in the fraud perpetrated in the affairs of IRL and its subsidiaries. The present Application thus seeks i) the impleadment of Respondent Nos. 1-31 to CP 3638 ii) amendments to CP 3638 in terms of Schedule A in order to incorporate the relevant findings for IRL and iii) extension of the 3rd December order to

Respondent Nos. 1-31 while the proceedings in CP 3638 are pending adjudication.

7) With specific reference to Respondent No. 15 (ARSS Infrastructure Projects Pvt. Ltd.) and Respondent No. 26 (Sagar Infra Rail), it is submitted that since the R15 was resolved through a CIRP Process under the Insolvency and Bankruptcy Code, 2016 and the R26 was Liquidated in 2021 with its core assets being acquired by one Acurite Contractors & Engineers Pvt. Ltd.; **the Applicant does not press the captioned Application against R15 and R26.**

8) It is submitted that the parties arrayed as Respondents to the present Application, and proposed Respondents to be impleaded to CP 3638 of 2018, are all parties who have been charged under Section 447 of the Act pursuant to the role played by them in the aforesaid fraud perpetrated in the affairs of IRL and its subsidiaries. Respondent Nos. 1 to 3 and 29 to 33 were aware of and actively involved in devising and executing the modus of fraud whereby arbitrary amounts of PDF/PMG were charged by ITNL and IRL on RMGL and RMGSL. Emails sent by these parties, or that they were

marked as such, showed discussions among the erstwhile management about amending agreements to allow ITNL and IRL to book artificially inflated profits. Respondent No. 1, in particular, was marked in emails wherein the modus of diverting RMGSL's borrowed funds to ITNL as PDF/PMF through backdated contracts/MOUs was discussed. He also signed multiple backdated development agreements and MOUs. Respondent No. 2, as MD, was also instrumental in executing the Amendment Agreement dated July 7, 2016, between ITNL and RMGSL, and the back-to-back agreements between ITNL and IRL, resulting in arbitrary payments of INR 54 crores and INR 45 crores to ITNL and IRL, respectively. He (Respondent No. 2) was aware that the contract was routed through ITNL with the intention of facilitating ITNL in booking undue revenue. Respondent No. 3 was the CFO and a signatory to IRL's development agreements and financial statements. He was also found to be marked on emails in which ITNL's strategy to book revenue from SPVs through various agreements was discussed, including an email indicating that an invoice was being raised vide

MoU dated April 15, 2013, even before the MOU was executed. He was aware that the contract was routed through ITNL with the sole intention of facilitating ITNL's booking of undue revenue. Further, Respondent Nos. 29 to 33, as KMPs of ITNL, in addition to being KMPs of IRL and its SPVs, exercised control over devising the modus operandi by which funds were routed to ITNL. Additionally, these Respondents were part of the Profit Achievability Plan ("PAP") team, which set the profit and revenue targets for ITNL and strategised the modus operandi of contract routing to book profits and portray a better financial position of the company in its books.

9) It is submitted that statements under oath as well as emails and relevant minutes of meeting highlight that Respondent No. 1 was in control of the process of awarding work orders to third party entities wherein the investigation found lapses and discrepancies. It is submitted that the role of Respondent No. 1 extended to every aspect of the contracting process, including selecting contractors, issuing work orders in a confidential manner without any tendering process or formal agreements, and issuing approvals for payments

to third-party entities. Respondent Nos. 32 and 33 were responsible for structuring the advisory agreements entered into by ITNL with Respondent Nos. 1 and 28. It is submitted that Respondent No. 33 confirmed that the agreements were entered into at the direction of Respondent No. 32 to compensate Respondent No. 1 for the recovery of excess managerial remuneration. Further, Respondent No. 33 himself executed the said agreements on behalf of ITNL and confirmed that no services were provided under these agreements. Further, Respondent No. 1 was the ultimate beneficiary, directly and through Respondent No. 28, of payments under the advisory agreements under which he raised falsified invoices and provided no services.

10) Respondent Nos. 4 to 27 are third party entities, being companies which were issued work orders by IRL and the Directors in charge of the affairs of these companies. The role of these Respondents pertains to the second instance of fraudulent conduct highlighted in the IRL Investigation Report, i.e., the wrongful loss of approximately INR 98 crores caused to IRL on account of work

orders for which no work was carried out by Respondent Nos. 4 to 27. It is submitted that the trail of funds, bank statements, invoices and contracts investigated by the SFIO for each Respondent entity further show that the works awarded to all of these Respondents were then further subcontracted to other entities, thereby allowing for the outflow of funds from IRL to be layered multiple times across multiple entities without any of the entities ever carrying out any works. Further, Respondent Nos. 5, 7, 9, 10, 12, 14, 16, 18, 19, 21, 23, 24, 25 and 27 were the Directors in charge of the Respondent companies which were issued work orders by IRL. It is submitted that the statements under oath referenced in Annexure 2 and Annexure 4 highlight that the said directors, as well as directors of their purported subcontractors, were aware that no works were being done by any of the entities involved; however, they continued to raise false invoices, receive funds from IRL and then further routed those funds without any underlying commercial considerations.

11) Respondent No. 28 (SRKK Advisors Pvt. Ltd.) is an entity floated, promoted and run by Respondent No. 1 (Sanjiv Rai). The company's role has been delineated in respect of the third instance, i.e. the unjust enrichment of Respondent No. 1. It is submitted that SRKK Advisors and Sh. Sanjiv Rai each entered into advisory agreements dated 24.03.2015 with ITNL for an aggregate consideration of INR 3 crores each. Emails, as well as invoices raised under the said advisory agreements (as highlighted in Annexures 3 and 4), indicate that payments were made for vaguely worded invoices and that there was no record of any work ever being done under the said agreements. Thus, Respondent No. 28 was the beneficiary of funds despite not rendering any services.

12) Hence, the present Company Application. Heard Ld. Counsel for the Parties for a considerable time and perused the material on record.

13) It is submitted that it is equally well settled in terms of the **Hon'ble Supreme Court's judgment** in ***Bhogadi Kannababu & Ors. v. Vuggina Pydamma & Ors. [(2006) 5 SCC 532] (Para 10, 11)*** that in

applications for impleadment, such as the present application, this Tribunal is only required to see whether the presence of the party sought to be impleaded is necessary to enable a complete adjudication of all questions involved in proceedings. Similarly, the **Hon'ble Madras High Court** has also held in ***Akshya Vidyalaya Charitable Trust v. E. Kaladevi & Ors. [MANU/TN/0635/2002] (Para 4)*** that at the stage of impleadment, what is required is prima facie satisfaction on the basis of the pleadings before the Court that the parties are required to be impleaded for a complete adjudication of the dispute. Thus, at the stage of impleadment, the merits of the claims in question are not adjudicated upon. Thus, the reliefs sought in the present application for impleadment need not be tested on the anvil of whether the Applicant will succeed in the grant of final reliefs, or to what extent they can be granted. Further, the Applicant has demonstrated that given their role, the Respondents are, prima facie, required to be impleaded.

Submissions of Respondent No. 2

14) The R2 has filed his reply and clubbed the objections contending that the Company Application against the Respondent No. 2 is without authority of Law. Since the MCA communication dt. 06.03.2024 does not provide the Authority to file the Petition against R2, the Company Application is ultra vires. As per Sections 241-242 of the Companies Act, 2013, the Tribunal does not have Territorial jurisdiction to adjudicate against R2 in the present proceedings. The Company Application is not maintainable since it is based on a distinct and independent corporate action that is different from CP 3638 of 2018, and there is a specific rebuttal to the limited, and no prima facie case against R2 is made out. The contentions of R2 would be dealt with later in this Order.

Submissions of Respondent No. 4 & 5

15) R4 & R5 have filed the Reply and contended that the Respondents have been impleaded in the present proceedings solely on the basis of contractual relationship and obligations arising out of the work orders secured by Respondent No. 4 from IL&FS Rail Limited (IRL) and R5, at the relevant time, was the whole-time

Director of R4 and presently its Managing Director and has been impleaded on that basis.

16) R4 has further sub-contracted the work to Two Entities (i.e. Ethical Constructions Pvt. Ltd. & Crescenda Solutions Pvt. Ltd.). The sub-contractors further engaged third parties to complete the portion. The Respondents have no direct Relationship with those Third-parties. R4 has duly executed the work entrusted to it under their work order dt. 09.04.2015 & 09.05.2015 issued by IRL. The invoices were raised by R4 and relied upon by the Applicant itself expressly records that the work was completed as per the work orders to the satisfaction of the Company and that the Payment was released accordingly. The Applicant has failed to produce any evidence to show that the Respondents were involved in any fraudulent activities or participated in any layering of funds. The Applicant has furthermore failed to prove any participation in fraudulent conduct or even the mere facilitation of the alleged fraudulent activities. Mere association by means of a contractual

obligation, without more, does not establish the Respondents' involvement in the alleged transgressions.

17) The IRL's alleged wrongdoings cannot without more be attributed to these Respondents. The Respondents do not fall within the ambit of Section 339 of the Companies Act, 2013, as they are third parties to the transactions between the IRL and the parties that issued the underlying tender.

Submissions of Respondent No. 30

18) Respondent No. 30 has filed his reply and contended that the Applicant seeks impleadment of R30 into the CP 3638 solely on the strength of observations recorded against him in the Investigation Report of SFIO concerning IRL. The allegations made in the report against R30 do not disclose any specific act, decision or instructions attributable to them. The reliance placed on an isolated and unrelated E-mail, in which the Respondents may have been copied by virtue of his designation as then Chief Financial Officer (CFO) of ITNL, is wholly insufficient in law to sustain an allegation of Fraud or to justify his impleadment in the present proceedings. The

proposal to amend the said development agreement was discussed and approved by the Senior Management of ITNL and RMGSL in December, 2015, which is prior to the present Respondent having been in charge as CFO of ITNL from 1st January 2016. Further, the Respondent was not included in any of the subsequent communications between officials of ITNL and IRL regarding the said amendment and its implementation. Merely holding the position of CFO in ITNL does not automatically make the Respondent accountable for the said action.

19) The present Respondent, further, in his capacity as CFO, was never involved in any project-related matters which included, but were not limited to, appointment of contractors/subcontractors, negotiations and finalisation of contract price, issue of work orders / Development Agreements, project execution, supervision, etc. All the decisions in these matters were handled by the Project implementation and business development teams of ITNL and IRL, which reported to the Executive Director / Managing Directors in

respective organisations, and the Respondent had no oversight of any sort over their day-to-day activities.

20) The present Respondent came to be appointed as a non-executive director on the board of RMGSL only at the very meeting dated 6th February 2016, in which the amendment to the Development Agreement was approved, and that too at the far end of the said meeting, after the said amendment had already been discussed and concluded. It is therefore submitted that the present Respondent had no role whatsoever, either as a CFO of ITNL or as a director of RMGSL, in the approval of the amended Development Agreement.

21) The present Respondent further submits that the SFIO Report has failed to produce a single instance of money having been wrongly paid or diverted at the present Respondent's instance, nor has it pointed to any undue benefit derived by the present Respondent from any transaction. In the absence of any such material, the threshold required under Section 339 of the Companies

Act, 2013, to fasten liability for fraudulent conduct, remains wholly unmet as against the present Respondent.

22) The present Application is rendered unnecessary in view of the pendency of Company Application No. 162 of 2025 in which similar reliefs against the present Respondent in connection with his alleged role in the affairs of ITNL.

23) It is submitted that the present Application is liable to be rejected on the ground of delay. The SFIO investigation report was submitted in the year 2024, and the Applicant has filed the present Application after more than one and a half years, seeking various reliefs including an ad-interim order. The reliefs sought are beyond the scope of Sections 241, 242 and 339 of the Companies Act, 2013. No case for Attachment before Judgment has been made out. The present Respondent cannot be treated as an Officer in default. No Unlawful Gain or Personal Benefit has been derived by the present Respondent. The subsequent conduct and unblemished track record negate the allegations made against him that he was subsequently elevated to the position of Chief Executive Officer by the New Board

functioning under the supervision of the Ministry of Corporate Affairs, and played a key role over five years in the resolution of the IL&FS group, including settlements and divestments running into several thousand crores of rupees. It is submitted that in a career spanning over thirty-four years, no regulatory or legal action has ever been taken against the present Respondent, and the New Board has, at no point, raised any irregularity or allegation against him.

Submissions of Respondent No. 32

24) Respondent No. 32 has filed the Reply contending that by the present Application, the Original Petitioner is seeking to enlarge the scope of the Company Petition which is not legally permissible by belatedly seeking to introduce a new prayer under Section 339 of the Companies Act, 2013 for payment of such amounts as may be determined by this Tribunal for alleged fraudulent conduct qua the affairs of the IRL and its subsidiaries which is legally impermissible. Section 339 applies only to the concerned company which is in the course of winding up, which forms part of Chapter XX of the Companies Act. In the present case, neither IRL nor its subsidiaries

are undergoing a Resolution Process which is being carried out pursuant to a resolution framework approved by the Hon'ble NCLAT and under the supervision of Justice D.K. Jain (Retd.) and this Tribunal. As such the amendment sought to be introduced by way of Company Application is not maintainable and ought to be dismissed. The present Company Application is barred by limitation. The cause of action for filing the present Company Petition arose on 07.09.2018, when Enso Infrastructure Pvt. Ltd. had preferred Company Petition No. 192 of 2018 u/s 241 242 244 of the Companies Act before the NCLT, Chandigarh. This Petition alleges the mismanagement of IRL and siphoning off of funds through the issuance of fictitious purchase orders for non-existent works resulting in payments been made against invoices from bogus entities. The Ministry of Corporate Affairs and Regional Director were also party Respondents to the present Company Petition. As such, the cause of action to cause an investigation and institute appropriate proceedings in respect of the allegations contained in this Petition arose on 07.09.2018 and therefore it is barred.

25) The Application suffers delay and laches. No notification has been issued by the Original Petitioner under Section 458 of the Companies Act in favour of the Regional Director for instituting the present Company Application. In the present case, the Original Petitioner has passed the Order dt. 06.03.2024 permitting the Regional Director of the Ministry of Corporate Affairs to file an Application in the Company Petition under Section 241 and 242 of the Companies Act, 2013 to bring on record investigation report of IRL. However, no notification has been issued by the Original Petitioner in terms of Section 458 of the Companies Act authorising or delegating its power to the Regional to file the present Company Application. The prayer for adding this Respondent is not necessary for effective adjudication of the real controversy between the parties. The Original Petitioner has failed to make out a case for amendment to add proposed prayer clause (e) against this Respondent.

Submissions of Respondent No. 1

26) Respondent No. 1 has filed his Reply and contended that there is inordinate delay of over 7 years in filing this Application. It is contended that the he is an experienced professional with several decades of experience in infrastructure development, project finance and strategic management. He has held senior positions in leading financial and infrastructure-related organizations. He was appointed as an additional director of IL&FS Rail Ltd. ("IRL") on 19 September 2008. Thereafter, he was made a permanent director on 19 May 2009. He continued to serve as a director on the board of IRL till 01 April 2010 and thereafter was appointed as the Managing Director from 01 April 2010. He retired from IRL on 31 March 2015. Consequent to his retirement, he had no further involvement in the activities or day-to-day management of the said company. The present Company Petition was filed on 01.10.2018 and the present application seeking to add the present Respondent No. 1 was filed only on 15 July 2025. Therefore, there is a delay of nearly seven (7) years. from the filing of the main petition. The basis of impleading the proposed respondents is the SFIO Investigation Report dated 5

December 2023 in respect of IRL and its subsidiaries. Even reckoning the date of the SFIO Report, the Impleadment Application was filed only in July 2025, which is after a delay of about nineteen (19) months. There is no explanation whatsoever has been furnished by the Applicant for this delay.

27) It is submitted that the Applicant was admittedly aware of IRL, Rapid Metro Gurgaon Limited ("RMGL") and Rapid Metro Gurgaon South " Limited ("RMGSL") as the group/related entities of Infrastructure Lease & Finance Services Ltd ("IL&FS") since the earliest stages of the SFIO Investigation, which commenced pursuant to the Office Order dated 30 September 2018. The Applicant from the inception of the investigation would have been known about the irregularities and therefore, the impleadment is afterthought.

28) It is not the case of the Applicant that the Respondent No. 1 was involved in any alleged unlawful activities concerning the entities after his retirement on 31 March 2015 much less at the time

and after the filing of the present Company Petition, therefore, the impleadment Application is time barred.

29) Company Petition has been pending for over six (6) " years with numerous interlocutory applications. The impleadment of 33 new respondents at this stage would necessitate fresh pleadings, fresh evidence, and fresh hearings. This would effectively restart the proceedings, causing irreparable injury to all existing parties. The present Respondent is neither proper nor necessary party. The Respondent's alleged conduct relates exclusively to IRL and its subsidiaries i.e RMGL and RMGSL. The primary controversy in the petition relates to the management of the affairs of IL&FS Ltd., IL&FS Transportation Networks Limited ("ITNL"), IL&FS Financial Services Limited ("IFIN"), and their group companies at the holding company level. Therefore, the main controversy in the Company Petition can be effectively and completely adjudicated without the presence of the Answering Respondent. The Impleadment Application does not clearly specify what final relief is sought against the Answering Respondent in the Company Petition. The

alleged claim for liability for "wrongful loss of INR 97 Crores to IRL ", assuming there is one, is a separate and independent cause of action against the Answering Respondent relating to a step-down subsidiary and not a matter arising from or integral to the subject matter of the Company Petition.

30) The SFIO Report pertains to IRL which is a separate Report relating to a Different Entity. Adding the present Respondents amounts to multiplicity of proceedings. The present case involves disputed questions of fact and is therefore best resolved through a trial, instead of through present proceedings. The (alleged) complicity of the Answering Respondent cannot be adjudicated through the present proceedings. Therefore the present proceedings must not proceed until the present Respondent has had an opportunity to prove his innocence and demonstrate that he had no role to play in the facts leading the Impleadment Application. Respondent denies each and every allegation of fraud, mismanagement, siphoning of funds, fictitious billing, non-rendering of services, or any other alleged wrongful act attributed to

him in the present application. The allegations that the Answering Respondent conducted the affairs of IRL, RMGL and RMGSL in a fraudulent manner and caused wrongful loss to these entities are specifically denied for being false, frivolous and baseless. The assertion that the present Respondent was "knowingly party to the conduct of business of IRL, RMGL and/or RMGSL in a fraudulent manner" and is liable for an alleged "wrongful loss of INR 97 crores to IRL", is wholly incorrect, misconceived and denied.

31) Applicant's case proceeds on the premise that the Answering Respondent, as the Managing Director of IRL, was in a position to take unilateral decisions and single-handedly structured, approved and implemented the impugned transactions and contracts. It is submitted that the IL&FS group companies and the subsidiaries were managed in a top-down manner with all decisions taken at the level of ITNL.

32) The board of IRL comprised of seven (7) directors, i.e., four (4) from ITNL, two (2) independent directors who were the nominees

of Enso Limited and the Answering Respondent. All major decisions were therefore collectively taken by the board of IRL.

33) The present Respondent was neither a shareholder nor the owner of IRL and, as such, could not and did not act as a unilateral decision-maker. The sweeping allegations that the Answering Respondent orchestrated or knowingly participated in fraudulent conduct of business, indulged in fictitious billing, layering of funds and diversion of public monies, are wholly unwarranted, lack factual foundation so far as the present Respondent is concerned.

Submissions of Respondent Nos. 6 & 7

34) Respondent Nos. 6 & 7 filed the Reply and contended that the investigation Report essentially pertains to the singular transactions of R6 NKG Infrastructure Limited with ITNL Enso Rail pertaining to work order dt. 18.08.2013 and the payments received. While no specific role has been alleged against the Respondent No. 7, who is the Managing Director of R6. He is sought to be impleaded as a party Respondent in the Company Petition only and only by virtue of his position as Managing Director of R6. There is not a single

averment against R7 in the entire Application. The attachment orders passed by this Tribunal have excluded the account of R6, which shows the bona fide of this Respondent. The company petition is absolutely silent about the present Respondent.

35) The present Respondent Company is a reputed Company and has completed over 5500 infrastructure projects in 15 different states across various sectors. At the relevant time, the R7 was responsible for the handling and execution of all government projects undertaken by R6, while his younger brother, the late Mr Devendra Kumar Garg, who was the Joint Managing Director of R6, was in charge of all private projects, including the transaction forming the subject matter of the present proceedings. All correspondence and documents pertaining to the said transactions were either executed and signed by the late Mr Devendra Kumar Garg or executed under his instructions, as it was a private project undertaken by R6. R7 has no role whatsoever in the execution of the subject project of that transaction. His knowledge is only limited to records available with

R6 or the limited infrastructure that was passed by the Joint Managing Director.

36) The transactions in question pertain to the Year 2011, which is more than a decade old. Even with the passage of time and the demise of the officer who oversaw the transaction projects, several contemporaneous documents are no longer available in the Company. It is contended that the work allotted to this Respondent pursuant to the Contract was duly completed. R6 has acted in good faith in the ordinary course of business with no reason to suspect that any official of ITNL was engaged in any irregular or Fraudulent activities in relation to the said project. The transactions were entirely at arm's length.

37) The present Respondents are neither necessary nor proper parties to the present Petition. Invocation of section 339 r/w section 246 of the Companies Act is erroneous against the present Respondents as they were not associated or concerned with the internal functioning and affairs of IRL or any of its subsidiaries. R6 was merely a contractor hired for the execution of project work, had

no role in carrying on the business of the Company ITNL, and was not knowingly a party to the fraudulent conduct and that any aspect relating to the terms of structure of the Tender was determined solely by ITNL.

38) Therefore, the present Respondent cannot be equated with the Directors, Managers, or Officers in charge of the affairs of ITNL as they had no role in the functioning of ITNL and thus cannot be held liable and relying on Usha Anand Subramaniam...vs...Union of India (2020) 4 SCC 122, the provisions of Section 339 r/w 246 cannot be pressed against this Respondent. The present Respondent cannot be solely impleaded based on SFIO's investigation without a Trial and the Order dt. 03.12.2018 and modified by Order dt. 16.01.2019 cannot be extended on the answering Respondent.

Submissions of Respondent Nos. 8 to 10

39) Ld. Counsel for Respondent Nos. 8 to 10 has filed the Reply and contended that this Tribunal lacks jurisdiction to implead the proposed Respondents. It is submitted that the Applicant has failed to establish a prima facie case of fraud against these Respondents

warranting their impleadment in the main Company Petition. Respondent No. 8 is a private limited company with its own independent existence. These Respondents are not part of the ILFS Group nor are they Related parties as defined under the Companies Act. The attempt to freeze their assets under the guise of an investigation into the ILFS Group violates their fundamental rights to property and business. The assets of the separate legal entity cannot be treated as the assets of the client company. Reliance is placed on Vodafone International Holdings BV…vs.. Union of India (2012) 6 SCC 613. The work orders for site development and road repair at the Metro Depot were legitimate commercial contracts. The technical teams of ILFS Rail Limited verified and certified the work before payments were released. The mere fact that the work was sub-contracted to VNR Infrastructures Ltd. does not render the primary contract fictitious. Sub-contracting is a standard industry practice in large scale infrastructure projects. The corporate veil of the Company cannot be pierced unless the company is a mere

camouflage, Reliance is placed on Balwant Rai Saluja…vs…Air India Ltd. (2014) 9 SCC 407.

40) Respondent Nos. 9 and 10 acted in their capacity as Directors in good faith. All decisions were based on Board Resolutions and commercial necessity. The bank statements provided in volumes 29-32 demonstrate that the funds received from IRL were utilised for project-related expenses, payments to sub-contractors, and company operations. There is zero evidence of any personal kickbacks or diversion of funds to the personal accounts of Respondent Nos. 9 and 10. Respondent No. 9 has already appeared and provided his statement under oath clarifying the business model and the legitimacy of the transactions. The extension of interim orders is opposed by these Respondents, who contend that it will cause hardship and bring the business to a standstill, affecting the livelihoods of employees and statutory Creditors. Freezing the personal assets of Respondent Nos. 9 and 10 without a final finding of guilt is a punitive measure that exceeds the scope of Section 241-242 of the Companies Act, 2013.

Discussion

41) No other Respondents have filed the Replies. Ld. Counsel for the Applicant, in his Written Submissions, has categorically stated that no relief is pressed against Respondent Nos. 15 & 26; accordingly, we shall restrict this application in relation to prayers against other Respondents.

42) Considering the rival contentions of the parties to the present Application, by and large, the contention of the Applicant is that the investigation by the SFIO was conducted into the affairs of ILFS, more particularly in executing the project concerning IRL, the subsidiary of ILFS, which undertook the projects for the Haryana Government, Gurgaon Region. It is the contention of the Applicant that the affairs of the Company were conducted for fraudulent purposes, resulting in considerable losses to the Company and its creditors. The Investigation Report contained findings pertaining largely to the development of the Rapid Metro project in Gurugram, Haryana which was a project secured from Haryana Urban

Development Authority ("HUDA" now known as Haryana Shehri Vikas Pradhikaran, "HSVP") and housed in RMGL and RMGSL.

43) It is contended by the Counsel for the Applicant that there was fraudulent charging of revenue by IRL and ITNL from RMGL and RMGSL, Wrongful loss to IRL by fictitious expenses wherein IRL awarded bogus work orders to 10 third-party entities as a result a loss of approximately INR 98 crores was caused to IRL on account of these work orders given that i) the process of awarding the work orders was in contravention of SOPs of the IL&FS Group and marred by glaring discrepancies including the fact that the works in questions were HUDA/HSVP's contractual obligations to perform ii) payments were made on the basis of false and fabricated invoices and without any verification of works, and iii) the trail of funds showed the layering of monies across multiple entities which did not execute any works.

44) It is contended that Sh. Sanjiv Rai (MD, IRL) was enriched personally by excess remuneration paid to him in contravention of the provisions of the Act. In view of the findings of the IRL

Investigation Report, the Respondents to the present Application were charged under Section 447 of the Act for their role in the fraud perpetrated in the affairs of IRL and its subsidiaries. The present Application thus seeks i) the impleadment of Respondent Nos. 1-31 to CP 3638 ii) amendments to CP 3638 in terms of Schedule A in order to incorporate the relevant findings for IRL and iii) extension of the 3rd December order to Respondent Nos. 1-31 while the proceedings in CP 3638 are pending adjudication. With specific reference to Respondent No. 15 (ARSS Infrastructure Projects Pvt. Ltd.) and Respondent No. 26 (Sagar Infra Rail), it is contended that R15 was resolved through a CIRP Process under the Insolvency and Bankruptcy Code, 2016 and R26 was liquidated in 2021 with its core assets being acquired by one Acurite Contractors & Engineers Pvt. Ltd. The Applicant does not press the captioned Application against R15 and R26.

45) The role of each of the Respondents has been categorised specifically in the investigation report. It is contended that Mr Sanjiv Rai was a signatory to financial statements that presented a false

picture of the company's financials. He was a member of the Committee of Directors which took key operational and commercial decisions for IRL and its SPVs.

46) As against the Contentions of the Applicant, it is contended by the Respondents, by and large, that this Court does not have jurisdiction to try to entertain this Application as against the present Respondents and the Respondents have contended that all the decisions were taken by the top most management and the Respondents were the persons who have executed the works. So far as contractors are concerned, it is contended that they entered into the contracts and executed the works upon which the Bills were raised and encashed. Therefore, being third parties, the provisions of Sections 241-242 r/w Section 339 would not be applicable to them. All the Respondents have tried to prove their innocence by pleading that they were not involved in the fraudulent acts and mismanagement as alleged by the Applicant against ILFS and its subsidiaries.

47) Ld. Counsel for the Applicant submitted that the proposed amendment is within the frame of the Petition in CP 3638. It is settled law that, when deciding whether to allow an amendment, the scope of consideration is only whether the amendment is necessary to decide a dispute between the parties and to do complete justice to them before the Court. At the stage of amendment, the correctness or falsity of the case set up in the amendments, as well as the merits of the amendment sought to be incorporated, are not to be considered or adjudicated upon. The reliance is placed on ***Rajesh Aggarwal & Ors. v. KK Modi & Ors. [(2006) 4 SCC 385.***

48) Issues raised by the Respondents, i.e. whether the reliefs sought by way of amendment can be granted, are essentially issues concerning the substantive merits of the amendment. The amendments sought in the present Application are necessary to incorporate the specific findings of fraud in respect of these Respondent companies already impleaded in the Petition and are

therefore, squarely within the frame of the Petition. The Petition was filed averring that the looming debt burden on the IL&FS Group as a whole, and entity-wise defaults, threatened to collapse the financial markets in India. An investigation by the SFIO was ordered into the affairs of IL&FS Ltd. and its group companies, with the Petitioner seeking liberty to bring the findings of the investigation on record. A complete resolution of IL&FS and its group companies would be possible only when the debt is resolved, the mismanagement/possible fraud are uncovered, and the victims are compensated.

49) With respect to the contention that reliefs under Section 241-242 cannot be sought against the Respondents to the present Application by way of the amendment of CP 3638, it is submitted that CP 3638 is a Petition filed under Sections 241, 242 which was later amended to be a Petition under Section 246 read with Section 339 of the Act. While the reliefs under Section 339 are dealt with separately, it is well settled that the powers of this Hon'ble Tribunal

under Sections 241 and 242 are of wide amplitude to, inter alia, prevent prejudice to the public interest.

50) Petition is in respect of the IL&FS Group as a whole, which would also necessarily include the Respondents who were key to and have a direct nexus with the fraudulent conduct of affairs of Respondent group companies impleaded to the Petition. As against this contention, Respondent No. 1 contends that the SFIO report pertains to IRL across different entities. The Petition under Sections 241-242 of the Companies Act cannot be converted into an omnibus enquiry into the affairs of every subsidiary or step-down subsidiary of the entity merely because such entities form part of the same corporate group. The allegations are distinct from the pleadings in the main Petition. The Applicant cannot be permitted to enlarge the scope of the Company Petition by importing independent grievances relating to the said corporate entities and the subsidiaries. R2 has submitted that the present Application has been filed pursuant to the instructions issued by MCA. The authorisation and instructions to file the Company Application are set out in

paragraph C of the MCA communication, which authorises the Regional Director to file the Application. The authorisation in the present case and the MCA communication in the present case are to implead only in the Company Petition such persons against whom the SFIO has recommended charges under Section 447 of the Companies Act and 420 of IPC. Therefore, SFIO is not authorised to implead R2 as a party to the present Petition. The SFIO has charged under Section 447, and there is no authorisation to make R2 a party.

51) R2 was the Managing Director of IRL, RMGSL, RMGL and continued as MD of IRL and RMGSL and Director of RMGL even after 01.10.2018. Company Petition was filed on 01.10.2018 seeking the removal of the then-existing board of directors. Therefore, R2 was not covered by the scope of the Company Petition. Only individuals who ceased to be Directors as of 01.10.2018 on account of an order of this Tribunal, or who ceased to be Directors of ILFS prior to 01.10.2018, may be considered for impleadment in the Company Petition. R2 is outside the scope of 241. Having regard to the allegations, the only provisions which could conceivably have

been invoked against R2 are clause 'h' and 'i' of Section 242(2) of the Companies Act. There are no allegations whatsoever in the Company Application that R2 made or received any undue gain from the alleged transactions. The only charge alleged against R2 is under section 447, on account of an enabling amendment to two existing agreements between ITNL and RMGSL, which allegedly enabled ITNL and IRL to charge revenue alleged to be fraudulent. There are no allegations that R2 derived any undue gain from the alleged actions; consequently, no recovery can be ordered against R2.

52) R4 & R5 have also filed Reply and contended that the Company Petition of the Applicant is under section 241(2) of the Companies Act on the footing that the IRL's affairs have been conducted in a manner prejudicial to the public interest. It is not a minority Shareholder oppression case. There must be an independent, statutory and evidentiary basis for fastening any consequences specifically upon the Respondents. A statutory and evidentiary foundation is independently required before any relief

can be imposed upon R4 & R5. These Respondents do not fall under the ambit of Section 339 of the Companies Act. Reliance is placed on the judgment in the case of **Usha *Ananthasubramanian v. Union of India, (2020) 4 SCC 122*** wherein it is stated as under:

> *"6. Under Section 241(2), the Central Government, if it is of the opinion that the affairs of the company are being conducted in a manner prejudicial to public interest, may apply itself to the Tribunal for orders under this Chapter, which is headed "prevention of oppression and mismanagement". Apart from the vast powers that are given to the Tribunal under Section 242, powers under Sections 337 and 339 are also given in aid of this power, which will apply mutatis mutandis." "7. Section 337 refers to penalty for frauds by an officer of the company in which mismanagement has taken place. Likewise, Section 339 refers to any business of the company which has been carried on with intent to defraud creditors of that company. Obviously, the persons referred to in Section 339(1) as persons who are other than the parties "to the carrying on of the business in the manner aforesaid" which again refers to the business of the company which is being mismanaged and not to the business of another*

company or other persons." "8. This being the case, it is clear that powers under these sections cannot possibly be utilised in order that a person who may be the head of some other organisation be roped in, and his or her assets be attached. This being the case, we set aside the impugned order passed by NCLAT and well as NCLT. The appeal is allowed in the aforesaid terms."

53) Further, reliance placed on ***Union of India ...vs...Geetanjali Gems Ltd. (2018) 209 Comp CAS 360 NCLAT***, is misplaced. It merely records that the liability under Sections 339 and 340 may extend, by operation of Section 341, to Partners or Directors of Firms or Other companies. It does not dispense with the substantive ingredients of Section 339 or hold that an independent Third-party contractor becomes liable merely by entering into Commercial transactions with the concerned Company. It is submitted that the decision concerned principally the Tribunal's power to maintain interim protective restraints during an ongoing investigation, and not the final determination that every third party in a transactional chain was knowingly a party to the fraudulent carrying on of business.

54) Relying on the decision of the Hon'ble NCLAT in Worldwide Online Services Pvt. Ltd., it is submitted that the liability arises only against the persons knowingly participating in carrying on the business with dishonest intentions to defraud.

55) The present application is solely based on the investigation report of SFIO, who has investigated the affairs of ILFS and ITNL concerning the projects relating to the Gurgaon Metro and has ultimately found that there was siphoning of funds, layering of contracts and creating false and fabricated Bills. The Applicant has found material against the present Respondents for their involvement in the fraud allegedly perpetrated by the management of ILFS and its group companies. The contracts were allotted, sub-contracting was done, further contracting was done, and the Bills were raised; however, the SFIO found that the actual work was not done. The project costs were exorbitantly increased by amending the contracts, thereby benefiting the management of ILFS and IRL and the Top level at the same time, benefiting all persons involved in the chain.

56) By the present Application only the impleadment of these persons into the Petition which was filed under section 241, 242 and later amended to bring in section 447 and 339 is sought. This Tribunal under section 241-242 has wide powers to pass any orders to bring an end to the Oppressions and mismanagement. The fraudulent conduct alleged against the present Respondents must also be considered when deciding the Petition, as it is an important link in establishing the fraudulent acts alleged by the Applicant based on the investigation report.

57) Therefore, it cannot be said that by mere impleadment of these Respondents against whom some findings have been recorded by the SFIO would implicate them in the fraudulent conduct of the affairs of ILFS.

58) The Respondents would certainly have their defence on merits during the course of the further proceedings. Therefore, to contend that the scope of the Petition under Sections 241-242 cannot be extended to these Respondents would be incorrect, as their presence is certainly required to decide the Petition under Sections 241-242.

They are not only necessary parties, but also proper parties for the allegations made against them to operate in a chain, from top management to the sub-contractors and to the delegated contracts at the Lower Level.

59) The role of each of the Respondents in respect of each instance has been demonstrated prima facie in the present Application.

60) At the stage of impleadment pursuant to the investigation, the Tribunal is only required to see whether the presence of those Parties is required or not.

61) In the case of Bhogadi Kannababu & Ors vs Vuggina Pydamma & Ors 2006 5 SCC 532, the Hon'ble Supreme Court has held that in an Application for impleadment it is only required to see whether the presence of party sought to be impleaded is necessary to enable a complete adjudication of all questions involved in the proceedings. Similarly, the Hon'ble Madras High Court, in Akshaya with the Alia Charitable Trust, has held that, at the stage of impleadment, what is required prima facie is the satisfaction, based on the pleadings before the Court, that the parties

are required to be impleaded for the complete adjudication of the dispute.

62) The contention of the Respondent that CA 162 is pending and therefore their inclusion in the present Application is unnecessary. It is submitted by the Counsel for the Applicant that it is a distinct instance of Fraudulent conduct of business and affairs of ITNL and IRL. The role of Respondent Nos. 29 & 33 extends to both entities, and their inclusion in CA 162 for that role cannot, by any stretch, be taken to mean that any Respondents cannot be held liable for their role in respect of IRL.

63) Specific allegations are made against the Respondents to have been found party to the fraudulent conduct of business in both IRL and ITNL; therefore, their impleadment is sought in this case also. Therefore, their contention that they are already impleaded in the other Petition and that their impleadment in the present company petition is unnecessary lacks substantial force or merit.

64) Therefore, for an effective decision, considering the allegations and the findings reached by SFIO upon the investigation, the

involvement of these Respondents in perpetrating the fraudulent activities for unjust enrichment of themselves and the siphoning of the public money thereby destabilising the economy, the presence of these Respondents in the Petition under Section 241-242 is just and necessary without commenting on merits of the allegations or the defence of the Respondents.

65) Considering the report of SFIO and findings, and for effective decision of the Petition as a whole, the presence of these Respondents is a must.

66) The provisions of Section 339 of the Act provide for seeking a declaration that the fraud in a company has been committed and for making the actors who were party to the fraud liable. Section 339 of the Act is read into Section 241 of the Act by virtue of Section 246, which makes the provisions applicable mutatis mutandis to Applications under Sections 241-242.

67) In the case of Pralhad Sharma...vs... State of U.P. and Ors. 2000 4 SCC 113, the Hon'ble Supreme Court has held that mutatis mutandis implies applicability of provisions with necessary changes

in detail. It is further held that the principle of rule rather than details and particulars of the Authority would be made applicable. It is therefore submitted that the principle of imposing unlimited liability on the categories of parties enumerated in Section 339(1), which include any person who was involved in carrying on the business of the concerned Company for any fraudulent purpose, would apply to the present Application. Therefore, Section 339 can be sought in the present Application.

68) It is further pointed out that this Tribunal has categorically held that there may be a class of persons who are third parties and outside the operational and managerial structure of a Company who by virtue of their involvement and participation in the execution of the Fraudulent Act would be covered by the words "Any Persons" in section 339(1).

69) In view of these observations by this Tribunal, R4 to R28, who are Third-party entities or Directors of such third-party entities, are certainly necessary parties to be included in the array of parties for effective decision of the Petition in question.

70) Reference can also be made to the Bank of Credit and Commerce International and Other and Geetanjali Gems. Therefore, the contentions of Respondents that they cannot be impleaded as parties and that the provisions of Section 339 r/w 246 would not be applicable to them have no merit.

71) All the contentions of all the Respondents on merits would still be open to defend themselves during the course of proceedings of the main Petition. However, for effective adjudication of the Petition in question, and considering the allegations of Fraudulent conduct of the Business by ILFS and its group Companies in awarding contracts and siphoning funds, the presence of these parties is not only proper but also necessary.

72) On the point of Limitation, it is contended by the Ld. Counsel for the Applicant stated that the cause of action for filing the present Company Application pertains to the submission of the SFIO Report in respect of IRL dt. 05.12.2023, findings of Fraudulent conduct therein and subsequent directions issued vide letter dt. 06.03.2024 to initiate proceedings on the basis of the said findings. It is further

submitted that the IRL investigation report was filed when the Applicant had completed knowledge of Fraudulent conduct of affairs in respect of IRL. The present Application, having been filed in or around 2025, is thus within Limitation.

73) It is further submitted that the SFIO Report is distinct from CP 192 and thus limitation cannot by any stretch be anchored to those Petitions by which the Applicant is not even a party.

74) It is not in dispute that the present Petition was filed in the Year 2018, and thereafter the investigation was ordered. The SFIO has conducted an investigation and has taken substantial time. It is only upon the SFIO's report that the roles of these Respondents would be ascertained and certain accusations could be made. The SFIO Report was submitted sometime in the Year 2024, and based on that report the present Application is filed. Therefore, it cannot be said, by any stretch of imagination, that this Application and the present accusations against the present Respondents could have been made at the time of filing of the main Petition under Section 241-242 of the Companies Act, 2013, itself, without ascertaining the

role of these Respondents in the alleged fraud committed in the affairs of ILFS group Companies. Therefore, it cannot be said that this Application is filed beyond the period of 3 yrs as contemplated under Section 438.

75) It is further contended by the Respondents that the SFIO Report is an investigation report, a mere opinion of the investigation agency and is in the nature of a recommendatory document as opposed to conclusive findings and therefore cannot be relied upon. Ld. Counsel for the Applicant submitted that the issue is no longer res integra and has been conclusively decided by the Hon'ble Supreme Court vide it's Order dt. 28.02.2025, in Deloitte Haskins, wherein the Hon'ble NCLAT has held that the SFIO's investigation report is admissible and can be relied upon as evidence in proceedings under the Act.

76) The said Order was affirmed by the Hon'ble Supreme Court vide its Order dt. 19.05.2025 whereby the Appeals challenging the said Order was dismissed in Limine. Therefore, the Respondents' contentions that the SFIO report is a mere recommendatory

document and that no conclusive findings can be reached lack substantial force and merit. At this stage, the only ground for impleadment of parties to the present proceedings is whether the presence of Respondents is necessary for effective decision of the main Petition, which is based on the allegations of Fraudulent conduct of business and mismanagement and large-scale siphoning of funds by playing fraud; these Respondents are in the chain of siphoning of funds by fraudulent conduct. The question whether the contracts as awarded were executed or not and whether the money paid under those contracts was actually against the work conducted, whether the directors of the respective Companies were involved in perpetrating the fraud are the questions which are required to be gone into in detail while deciding the main Petition.

77) It would be premature at this stage of the impleadment of parties to decide and give a finding that the Respondents have no role in perpetrating the fraud as against the prima facie findings of SFIO against these Respondents.

78) As the proceedings against Respondent No. 15 & 26 cannot be continued in view of ongoing/concluded proceedings under Insolvency and Bankruptcy Code, 2016 in their Affairs barring any claim, including any proceedings, against them, we are of the considered view no proceedings can be continued against their Directors namely, Mr. Rajesh Aggarwal/Respondent No. 16 and Mr. Udayananda Reddy Kondapali/Respondent No. 27.

79) Further, the orders dated December 03, 2018, as modified by the order dated January 16, 2019, passed by this Tribunal in Company Petition No. 3638 of 2018, be extended to additional Respondent Nos. 1 to 28 hereto, except Respondent Nos. 15, 16, 26 & 27.

80) It is clarified that the said Order against Respondent Nos. 4 to 14 & 17 to 25 & 28 shall operate against each company and its directors to the extent of the amount alleged to be siphoned off or misappropriated through them in the SFIO investigation Report, till such amounts are modified by this Tribunal on the basis of further material placed on record or in terms of the final Order. Further, the

operation of said Orders against the Directors of Respondent Nos. 4, 6, 8, 11, 13, 17, 20 and 22, to be impleaded as Respondent Nos. 5, 7, 9, 10, 12, 14, 18, 19, 21, 23, 24, 25, shall cease to have effect if the relevant Respondent Company secures the amounts alleged to be siphoned off or misappropriated or diverted through each such company in the SFIO investigation Report. Respondent Nos. 5, 7, 9, 10, 12, 14, 18, 19, 21, 23, 24, 25 shall have 30 days' time to secure the amounts alleged to be siphoned off or misappropriated or diverted through each such company in the SFIO investigation Report, after expiry of which the orders dated December 03, 2018, as modified by the order dated January 16, 2019, passed by this Tribunal in Company Petition No. 3638 of 2018 shall come into effect against Respondent Nos. 4 to 14 & 17 to 25.

81) Further, Applicant is permitted to carry out amendments in Company Petition No. 3638 of 2018 in terms of Schedule A to the present Application.

82) Therefore, the present Application is required to be allowed in terms of the above. So far as extending the interim orders are

concerned, the Hon'ble NCLAT has modified the Orders passed by this Tribunal; accordingly, the Orders would be extended to these Respondents in that form and as further modified by the present Order. Applicant to carry out the Amendment and implead these Respondents as party Respondents to the main Company Petition within 15 days from the date of pronouncement of this Order.

83) IA (Companies Act) 196 of 2026 is allowed in the above terms and is disposed of. Further, CA 51 of 2026, filed by Respondent No. 32, is dismissed for the aforesaid reasons. CA 257 of 2025 also stands disposed of in the above terms.

Sd/- **Sd/-**

PRABHAT KUMAR
MEMBER (TECHNICAL)

SUSHIL MAHADEORAO KOCHEY
MEMBER (JUDICIAL)

Vedant Kedare
(Stenographer)