



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

**IA(I.B.C.)/900(CH)2025
IN
CP(IB) No.161/Chd/HP/2023
(Admitted Matter)**

(An Application under Section 65 (1) of the Insolvency and Bankruptcy Code, 2016)

IN THE MATTER OF:

IA(I.B.C.)/900(CH)2025

Dr. Vijay Vohra,

son of Sh. K L Vohra aged about 68 years

C/o Vohra Hospital, Ponta Sahib,

Himachal Pradesh-173025

Director and Shareholder of A.P.J Laboratories Ltd.

Email: roopakbansal@reddif.com

...Applicant

Versus

Himalaya Food International Ltd.,

CIN: L70102DL1992PLC047399

Regd. Address: 118, 1st Floor, 12 Gagandeep Building

Rajendra Palace, New Delhi Central Delhi-110008

Email: bk@himalayainternational.com

...Respondent

IN THE MAIN MATTER OF :

CP(IB) No.161/Chd/HP/2023

(An application under Section 7 of the Insolvency and Bankruptcy Code, 2016)

Himalaya Food International Ltd.

...Financial Creditor

Versus

A.P.J Laboratories Ltd.

...Corporate Debtor

Order delivered on: 22.05.2026



**Coram: SHRI KAUSHALENDRA KUMAR SINGH, HON'BLE MEMBER
(TECHNICAL)
SHRI KHETRABASI BISWAL, HON'BLE MEMBER (JUDICIAL)**

Present:

For the Applicant : Mr. Vishav Bharti Gupta, Advocate
For the Respondent : Mr. Aalok Jagga, Mr. Sahil Lohan,
Mr. Aryaman Jagga, Mr. APS Madaan,
Advocates

ORDER

1. The present Application bearing No. IA(I.B.C.)/900(CH)2025 has been filed by **Dr. Vijay Vohra**, who is a Director and Shareholder of A.P.J Laboratories Ltd., (hereinafter referred to as "Applicant"), under Section 65 (1) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**Code**") read with Rule 11 of NCLT Rules, 2016 seeking appropriate directions against the Respondent for fraudulent and malicious initiation of insolvency proceedings.

FACTS AND SUBMISSIONS OF THE APPLICANT

2. The submissions made by the Applicant in its Application are summarized hereunder:

(i) The present application has been filed under Section 65 of the Insolvency and Bankruptcy Code, 2016 by Mr. Vijay Vohra, a promoter shareholder and director of A.P.J. Laboratories Ltd. The applicant individually holds 7,34,000 equity shares of Rs. 10 each, constituting 18.37% shareholding in the Corporate Debtor. His wife, Mrs. Neelam Vohra, holds 2,08,666 equity shares of Rs. 10 each, constituting 5.22% shareholding. Further, his son, Dr. Vishal Vohra, holds 10,000 equity shares of Rs. 10 each, constituting 0.25% shareholding, while



his daughter, Dr. Punita Vohra, holds 74,000 equity shares of Rs. 10 each, constituting 1.85% shareholding in A.P.J. Laboratories Ltd. The applicant is also stated to be serving as a director of the Corporate Debtor since 11.07.2005.

(ii) The grievance of the applicant arises from the filing of a petition under Section 7 of the IBC by Himalaya Food International Ltd. against A.P.J. Laboratories Ltd. in CP (IB) No. 161/Chd/HP/2023. Applicant alleged that the said insolvency petition has been initiated fraudulently and with malicious intent, for purposes other than for resolution of Insolvency, thereby attracting Section 65 of the Code.

(iii) It is alleged that the Financial Creditor fraudulently created and raised certain alleged credit facilities after the Corporate Debtor had already become a Non-Performing Asset (NPA), purportedly in violation of applicable SEBI guidelines. The applicant further submits that the financial distress of the Corporate Debtor was caused by mismanagement attributable to the petitioner, resulting in bank dues of approximately Rs. 48 crores.

(iv) Reference has also been made to proceedings before the Hon'ble High Court of Himachal Pradesh in CWP No. 7719/2021, wherein contempt notices were allegedly issued to the directors on failure to obey their commitment to pay the amount due to the bank. The High Court found the act of the petitioner as mischievous and as such directed to remove their charge on the assets of A.P.J Laboratories Ltd



and the charges were duly removed. Copy of order annexed as Annexure-3 to the Application.

(v) The applicant further alleges suppression of material facts by the Financial Creditor, particularly regarding the circumstances under which earlier charges on the assets of the Corporate Debtor were removed. It is contended that this shows that the whole transaction was fraudulent. It is settled position of law that Section 65 application can be a ground for the dismissal of the petition even if the debt and default is established. In this regard reference is invited to the judgement of Hon'ble NCLAT, New Delhi in the matter of **Wave Megacity Centre Pvt. Ltd. vs. Rakesh Taneja and Ors.**, wherein it was held that:

"In event conditions under Section 65 are fulfilled Section 10 Application can be rejected, even if debt and default is proved. Thus, Section 65 has to be read as enabling provision to reject an application even on proving of debt and default Section 10 Application is not to be obligatorily admitted. The present is a case where it has been held that Application under Section 10 has been maliciously and fraudulently initiated for the purpose other than for the resolution of insolvency. The Hon'ble Supreme Court in (2010) 14 SCC 38 - Ramjas Foundation and Anr. vs. Union of India and Ors. has held that a person is not entitled to any relief, if he has not come to the Court with clean hand) which principle is also applicable to the cases instituted in other Courts and judicial Forums."

(vi) Additionally, the applicant asserts that Himalaya Food International Ltd. and A.P.J. Laboratories Ltd. are related parties having common directors and shareholders. It is specifically pleaded that out of five directors, three are closely related, namely Mr. Man Mohan Malik, his wife Mrs. Sangita Malik, and his brother-in-law Mr.



Sanjiv Kumar Kakkar, thereby rendering the Section 7 petition non-maintainable.

(vii) The applicant has also alleged that in a fraudulent manner, Mr. P.C. Bhandari who was an employee of Himalaya Food International Ltd was appointed as director of A.P.J Laboratories Ltd by Mr. Man Mohan Malik in connivance with his wife and brother in-law and said Sh. P.C. Bhandari was made to enter into the said agreements fraudulently. After 5-7 days the said Mr. P.C. Bhandari resigned as a director. This shown the whole purpose to introduce Mr. P.C. Bhandari was to sign the agreement for credit facility. Copy of Form DIR 12 is currently not available with the applicant.

(viii) On the aforesaid grounds, the applicant seeks dismissal of the Section 7 petition and initiation of proceedings under Section 65 of the IBC against Himalaya Food International Ltd. for fraudulent and malicious initiation of CIRP, along with imposition of maximum penalty under the Code.

SUBMISSIONS BY THE RESPONDENT

3. The Application has been opposed by the Respondent by filing a Reply dated 22.09.2025. The defense as taken in the reply are briefly summarised as under:-

(i) The Respondent submitted that the debt and default stand duly established from the bank transfers made by the Financial Creditor to the Corporate Debtor, as reflected in Annexure A-11 appended with the Section 7 petition. The debt exceeds the statutory threshold,



remains unpaid, and neither receipt of funds nor default has been disputed. Further, the Agreement dated 28.08.2015 has never been challenged and its execution is admitted.

(ii) It was further submitted that the amount is reflected as long-term borrowings in the Balance Sheets of the Corporate Debtor filed with the Registrar of Companies, constituting acknowledgment of debt. These financial statements are public records and remain undisputed. Even otherwise, acknowledgment in financial statements is sufficient to maintain a petition under Section 7.

(iii) The Respondent contended that the Corporate Debtor, having received, acknowledged, and utilized the financial debt, is estopped from raising objections thereafter. Accordingly, the present application fails to satisfy the ingredients of Section 65 and has been filed only to delay the Section 7 proceedings.

(iv) It was also submitted that after due service, the Corporate Debtor appeared through counsel and expressly stated no objection to admission of the petition. Affidavits were also filed before this Tribunal confirming that the petition was non-collusive and the debt was undisputed.

(v) Lastly, the Applicant, being a Director and Shareholder of the Corporate Debtor, was fully aware of the Section 7 proceedings but failed to raise objections at the appropriate stage. The present application has been filed belatedly only with an intent to stall the proceedings.



REJOINDER FILED BY APPLICANT

The Applicant filed Rejoinder dated 01.02.2026 which is briefly summarised as under:-

(i) The Applicant does not dispute transfer of funds or reflection of the amount in the Balance Sheets; however, the dispute pertains to the nature, legitimacy, and purpose of the transactions, alleging that the debt was fraudulently engineered to create a false basis for initiation of insolvency proceedings.

(ii) It is contended that reliance on *Shailesh Sangani v. Joel Cardoso* is misplaced, as the said judgment applies only to bona fide transactions and do not sanctify fraudulent loans created through collusive board resolutions and shadow directorship (as in the case of Shri P.C. Bhandari) for the purpose of siphoning funds or creating a false basis for insolvency.

(iii) The Applicant further relies upon the Order dated 09.03.2023 passed by the Hon'ble High Court of Himachal Pradesh, Court explicitly found the acts of the Respondent (and its directors) to be "mischievous" and directed the removal of the Respondent's charge on the Corporate Debtor's assets. This judicial finding is paramount and cannot be brushed aside as a "bald allegation."

(iv) It is also submitted that the charge created pursuant to Agreement dated 28.08.2015 stood satisfied on 07.03.2023, as reflected in MCA records, which fact was allegedly suppressed in the Section 7 petition, thereby raising serious doubts regarding



subsistence of debt. If the debt was genuine and due, why was the charge satisfied? This is a glaring omission indicative of fraud.

(v) Lastly, the Applicant submits that the purported "no-objection" by the Corporate Debtor's counsel and the affidavit filed are void ab initio as they were given under the instruction of the very same directors who are the beneficiaries of the fraudulent transaction and are in collusion with the Financial Creditor. They do not bind the Applicant, a minority director and shareholder, who was kept in the dark. A collusive admission cannot validate a fraudulent claim. On these grounds, invocation of Section 65 and dismissal of the main petition is sought.

OBSERVATIONS AND ANALYSIS

4. We have considered the submissions made by the learned counsels of Applicant as well as the Respondent 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.

5. The present Application has been preferred under Section 65 of the Insolvency and Bankruptcy Code, 2016 by the Applicant, who is admittedly a promoter shareholder and director of the Corporate Debtor, alleging that the Section 7 petition filed by the Financial Creditor has been initiated fraudulently and with malicious intent, for a purpose other than resolution of insolvency. The primary allegation of the Applicant is not with respect to the transfer of funds per se, but regarding the legitimacy and underlying purpose of the transactions, which according to him were structured in a



collusive and fraudulent manner to create an artificial financial debt and trigger insolvency proceedings.

6. At the outset, it is noted that the Applicant has not disputed the transfer of funds from the Financial Creditor to the Corporate Debtor. It is also not disputed that the said amounts are reflected in the Balance Sheets of the Corporate Debtor as long-term borrowings over several financial years. The Agreement dated 28.08.2015 forming the basis of the transaction also remains unchallenged and has not been declared void or invalid by any competent forum. The consistent reflection of the debt in statutory financial statements filed with the Registrar of Companies constitutes a clear acknowledgment of liability by the Corporate Debtor. Such acknowledgments, being public documents, carry evidentiary value in insolvency proceedings.

7. The Applicant has, however, sought to distinguish the issue by contending that although the transactions are reflected in the books, the debt itself was fraudulently engineered through collusive board resolutions and temporary appointment of one Shri P.C. Bhandari, allegedly an employee of the Financial Creditor, as a director of the Corporate Debtor solely for execution of credit facility documents. However, apart from making such allegations, no substantive documentary evidence has been placed on record to establish that the appointment was illegal, fraudulent, or that the underlying transaction was sham in nature. Even the Applicant admits that the relevant Form DIR-12 evidencing such appointment is presently unavailable.



8. The allegation that the Financial Creditor and Corporate Debtor are related parties by virtue of common directors and family relations has also been pressed into service to argue collusion. However, mere existence of common management or related party status, by itself, cannot be sufficient to infer fraudulent initiation of CIRP. It is now well settled that related party financial transactions are not per se prohibited under the Code, provided the debt is genuine, disbursed, and remains due and payable. In the present case, the receipt of funds, acknowledgment in books, and continued reflection of liability remain undisputed.

9. Much emphasis has been laid by the Applicant on the order dated 09.03.2023 passed by the Hon'ble High Court of Himachal Pradesh in CWP No. 7719 of 2021, whereby the charge created in favour of the Financial Creditor over the assets of the Corporate Debtor was directed to be removed, and the conduct of certain parties was described as "mischievous." However, on perusal, it is evident that the said proceedings pertained to compliance with directions concerning removal of charge and related disputes arising in the context of banking obligations. The said order does not adjudicate upon the extinguishment of the underlying debt itself, nor does it declare the financial transaction dated 28.08.2015 to be fraudulent or non est.

10. The Applicant has also argued that satisfaction of charge as reflected in MCA records on 07.03.2023 demonstrates discharge of debt and that suppression of this fact in the Section 7 petition amounts to fraud. This contention is misconceived. Satisfaction or removal of charge only signifies release of security interest and does not automatically amount to discharge



or repayment of the underlying debt unless supported by documentary evidence evidencing full payment or novation. No such evidence has been produced by the Applicant.

11. The record further reveals that the Corporate Debtor, through counsel, had appeared in the Section 7 proceedings and expressly submitted no objection to admission of the petition. Affidavits were also filed before this Adjudicating Authority confirming that the petition was non-collusive and the debt remained undisputed. The Applicant now seeks to invalidate these actions by alleging collusion among the majority directors. However, such allegations again remain unsupported by cogent material and appear to be an internal management dispute sought to be projected into insolvency proceedings.

12. Section 65 of the Code is a penal provision and can be invoked only where there is clear material to establish that insolvency proceedings were initiated fraudulently or with malicious intent for purposes other than insolvency resolution. Mere allegations of collusion, related party transactions, or internal disputes among shareholders/directors do not ipso facto satisfy the threshold under Section 65. The burden lies heavily upon the Applicant to establish fraud with specificity and supporting evidence, which in the present case has not been discharged.

13. The reliance placed by the Applicant on Wave Megacity Centre Pvt. Ltd. v. Rakesh Taneja & Ors. is distinguishable on facts. There is no material in the present matter demonstrating that the Section 7 petition has been filed for any collateral purpose or that the debt is fictitious. Rather, the



existence of debt and default appears prima facie established from documentary records.

14. In view of the foregoing discussion, this Adjudicating Authority is of the considered view that the Applicant has failed to make out a case under Section 65 of the Code. The allegations raised are largely founded on suspicion, internal disputes, and unsubstantiated assertions, without sufficient material to establish fraudulent or malicious initiation of CIRP by the Financial Creditor.

15. Accordingly, IA(I.B.C.)/900(CH)2025 in CP(IB)No.161/CHD/HP/2023 is **rejected** and **disposed of**.

Sd/-
Khetrabasi Biswal
Member (Judicial)
Inderjeet

Sd/-
Kaushalendra Kumar Singh
Member (Technical)