

**THE NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)**

**IA No.909/2019  
In  
CP (IB) No. 337/Chd/Hry/2018  
(admitted)**

**Under Section 66 of the Insolvency &  
Bankruptcy Code, 2016**

**In the matter of:**

Suresh Kumar Rakesh Kumar ...Petitioner/Operational Creditor

Vs.

Navjyoti Agro Foods Pvt. Ltd. ...Respondent/Corporate Debtor

**In the matter of IA No. 909/2019**

**Nav Jyoti Agro Foods Private Limited  
Through its Resolution Professional Mahesh Chandra Purohit**

Having its registered office at  
105/101, Chhatrapati Marg, Vijay Path,  
Mansarover, Jaipur, Rajasthan-302020

....Applicant

Vs.

**Rajinder Kumar**  
S/o Tara Chand  
Resident of 628, Sector-8, Karnal-132001

...Respondent No. 1

**Nathi Ram,**  
S/o Leelu Ram  
Resident of Village Hergarh,  
Tapu Shergarh, Karnal  
Haryana-132023

...Respondent No. 2

**Manoj Singla,**  
S/o Rajinder Kumar  
Resident of 628, Sector-8,  
Karnal-132001

...Respondent No. 3

**Order delivered on: 08.12.2023**

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)  
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

**Present:**

For Applicant: : Ms. Niharika Sohal, Advocate  
For respondent Nos 1 to 3 : Mr. Deepankur Sharma, Advocate

**Per: Harnam Singh Thakur, Member (Judicial)  
Subrata Kumar Dash, Member (Technical)**

**ORDER**

**IA No. 909/2019**

The present application has been filed under Section 66 of IBC, 2016 by the corporate debtor against the respondent being the suspended director of the corporate debtor for seeking directions to declare transactions amounting to Rs. 23,17,29,643/- as wrongful transactions under Section 66 of IBC and pass necessary orders.

2. The transaction auditor in his report has identified the following three categories of transactions on the basis of their modus operandi as falling within the purview of Section 66 of the Code.

- A. Writing off receivables without taking any effective recourse and contrarily showing those receivables as recoverable debt in the stock statement filed with bankers to defraud the creditors.
- B. Excessive cash discount given to buyers, which has resulted in excess losses to the corporate debtor.
- C. Sale of commodity to Cargil Agro International-Delhi on credit, at below the least purchase price, and abandon the recovery process.

3. The facts as stated by the applicant are as under:

IA No.909/2019  
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(admitted)

3.1 In the present case the CIRP was initiated on 12.02.2019 and then the moratorium was declared. During the CIRP proceedings, the Resolution Professional got a transaction audit of the accounts of the corporate debtor initiated and the transaction audit report (TAR) dated 09.07.2019 was submitted by the Transaction Auditor. In the said audit report, fraudulent transactions totalling to Rs. 23,17,29,643/- were determined mainly on the three following accounts:

**A. Writing off receivables without taking any effective recourse and contrarily showing those receivables as recoverable debt in the stock statement filed with bankers to defraud the creditors. (Rs.17,42,22,739/-)**

**B. Excessive cash discount given to buyers which has resulted in excess losses to the Corporate Debtor.(Rs. 23,61,435.11)**

**C. Sale of commodity to Cargil Agro International- Delhi on credit, at below the least purchase price, and abandon the recovery process. (Rs. 10,79,460/- + Rs.5,40,66,009/-)**

4. The three categories of transactions as pointed out by the transaction auditor are analysed in the subsequent paragraphs.

4.1 Write off debit balances

4.1.1 The transaction auditor has pointed out that debit balances in the name of the following parties have been written off on 31..03.2018 as identified below:

<b>Name of Party</b>	<b>Amount Written off (In Rs.)</b>
A.G. Enterprises-Delhi	2,42,01,516.00/-
Haryana Agro Foods Product-	88,56,143.55/-

Delhi	
Nakul Trading Company-Delhi	2,77,89,713.00/-
Shiv Shakti Agro Foods-Delhi	17,35,011.80/-
Shiv Mahadev Food Product-Delhi	2,60,82,600.00/-
Taj Trading Company-Delhi	1,14,77,781.00/-
Vijay Luxmi Enterprises	4,94,85,250.00/-
Vrindavan Trading Company-Delhi	2,34,42,383.00/-
Vrindavan Trading Company-Delhi	8,41,731.00/-
Kishan Kumar Pawan Kumar	3,10,610.00/-
<b>TOTAL</b>	<b>17,42,22,739.35/-</b>

4.1.2 It has been pointed out by the Transaction Auditor that an excessive rebate and cash discount of Rs. 23,17,29,643/- have been given to the aforementioned 9 parties on a sampling basis. It is stated that the same is not in the discounts or justified in normal business practice. It is further pointed out that the gross profit as per the financial statements of the corporate debtor, is only 2.30%. The discounts are given for the range of 4.69% to 19.28. Even after giving such huge discounts, the corporate debtor has written off the debt in many accounts, giving rise to the suspension of fraudulent transactions.

4.1.3 It has also been pointed out by the Transaction Auditor that the corporate debtor made a total sale of Rs. 5,51,45,469/- to Cargil Agro International In the financial year 2017-18 on the basis of the credit sales after granting discounts. The said sale proceeds have not been recovered from Cargil Agro International and no document has been provided to suggest that any serious effort or legal action is taken against the said debtor for non-payment of outstanding amounts.

4.1.4 Regarding the write-off of debit balances, the party-wise observations made by the transaction auditor are summarised below:

- a. **A.G. Enterprises:** In the F.Y. 2016-17 Branch Office-Delhi made sales to AG Enterprises on 15.06.2016 and 16.06.2016 totalling Rs 1,16,86,118/- which means that Branch Office-Delhi had to receive Rs.1,16,86,118/- from A.G. enterprises resulting into total Debit balance of Rs.2,42,01,516/- as on 31.03.2017. At the end of FY 2016-17, Nav Jyoti Agro Foods Private Limited had to receive Rs.2,42,01,516/- from A.G. Enterprises. It is stated that no serious efforts were taken to recover the due amount by the CD and the amount of Rs 2,42,01,516 /- was written off within a year on 31.03.2018 and transferred to a bad debt account against the sale which was made just a year before i.e. in FY 2016-17.
- b. **Haryana Agro Foods Product- Delhi:** Rs 88,56,144/- which was simply paid in excess of what was actually outstanding on 01.04.17 has been debited to a bad debt account in the FY resulting in the diversion of Co.'s funds as well as resulting in an increment of loss to the Co. by Rs 88,56,144/- in FY 17-18. Since this transfer of funds was done from the CC account PB A/c No. 4073008700003585, interest was payable by Nav Jyoti Agro Foods Private Limited which has again played a role in the increment of losses incurred by the company in FY 17-18.
- c. **Nakul Trading Company-Delhi:** In FY 2017-18, a total of Rs. 3,26,14,340/- was realized in PNB CIC Account 4073008700003585 on various dates through RTGS. The remaining amount, which was Rs. 2,77,89,713/- was written off as bad debts as on 31.03.18. Further, no serious efforts were taken to recover the due amount by the CD, and the amount of Rs

2,77,89,713/- was written off within a year on 31.03.2018 and transferred to a bad debt account against the sale which was made just a year before ie in FY 16-17.

- d. **Shiv Shakti Agro Foods Delhi:** A Balance of Rs 17,35,011.80/- has been debited in Bad Debts on 31.03.18. Without any liability to pay, CD has paid Rs 30,00,000.00/- from the same CC account held in Punjab National Bank which has increased the expenses in the form of interest on CC A/c that Nav Jyoti Agro Foods Private Limited had to pay to the bank for using this Rs 30,00,000.00. Therefore, a total loss of Rs. 17,35,011.80 plus the interest on Rs 30,00,000 has played a role in the increment of losses for the Co. in FY 17-18. The amount was not recovered in the FY 2017-18 and was shown as a bad debt. On further review, it was observed that no serious efforts were made to recover the amount which was paid unnecessarily and the same was written off within the same FY.
- e. **Shri Mahadev Food Product Delhi:** An amount of Rs. 2,60,82,600/- was brought into the books of Head Office and then it was debited to the bad debts account on 31.03.18. Further, no serious efforts were made to recover the due amount by the CD, and the amount of Rs 2,60,82,600 /- was written off on 31.03.2018 and transferred to a bad debt account. This is alleged as a careless approach on the part of CD for not making efforts to recover the said amount. Also this writing off of Rs 2,60,82,600/- has led to the increase in Net loss for Nav Jyoti Agro Foods Pvt Ltd in FY 17-18.
- f. **Taj Trading Company - Delhi:** On review of the books of accounts, it was observed that in FY 2017-18, out of Rs 5,22,27,181/-, a total of Rs. 4,07,49,400/- was realized in PNB CC Account 4073008700003585 on

various dates through RTGS. The remaining amount of Rs. 1,14,77,781/- was written off as bad debts as on 31.03.18. Further, it is stated that no serious efforts were made to recover the due amount by the CD, and the amount of Rs 1,14,77,781 /- was written off within a year on 31.03.2018 and transferred to bad debt account against the sale which was made just a year before ie in FY 16-17. This amount could have been realized easily as Taj Trading Co-Delhi has paid CD Rs 4,07,49,400/- also in the same FY. Also, writing off of Rs 2,77,89,713/- has led to the increase in Net loss for Nav jyoti Agro Foods Pvt Ltd in FY 17-18.

- g. **Vijay Luxmi Enterprises:** As per the transaction audit report, it was observed that an amount of Rs. 4,94,85,250/- was debited to bad debts account on 31.03.18 for which no serious efforts were made to recover the due amount by the CD and the amount of Rs 4,94,85,250/- was written off on 31.03.2018 and transferred to bad debt account. It is stated the above transaction is not in the interest of the business and not justified as normal business practice. This writing off of Rs 4,94,85,250/- has led to the increase in Net loss for Nav Jyoti Agro Foods Pvt Ltd in FY 17-18.
- h. **Virndavan Trading Company-Delhi:** As per the transaction audit report, an amount of Rs. 2,89,42,383/- was receivable from Virndavan Trading Company - Delhi, and on a review of books of accounts, it was observed that in FY 2017-18, out of Rs 2,89,42,383/-, a total of Rs. 55,00,000/- was realized in PNB C/C Account 4073008700003585 on 04.01.18 through RTGS. And the remaining amount of Rs. 2,42,84,114/- was written off as bad debts as on 31.03.18. It is stated that no serious efforts were made to recover the due amount by the CD and the amount of Rs 2,42,84,114/- was

written off on 31.03.2018 and transferred to the bad debt account. It is stated that this writing off of Rs 2,42,84, 1 14/- has led to the increase in Net loss for Nav jyoti Agro Foods Pvt Ltd in FY 17-18. During the further review of documents, it clearly shows the wrong intention of the corporate debtor to avail/enhance the limit from the bank by incorporating those debtors in the debtors list as on 30.04.18 which has been booked as 'bad' in the books of accounts 31.03.18, and is alleged to be wrongful trading under Section 66 of IBC 2016.

- i. **Kishan Kumar Pawan Kumar:** On review of Books of Account, a balance of Rs 1,80,610/- remained due to be received. It was found that during the same F.Y. 17-18 payments of Rs.1,30,000/- were also made to Kishan Kumar Pawan Kumar on various dates from PNB Account No-4073002100008469 which was not required as CD was making sales to Kishan Kumar Pawan Kumar and part payment was also received. Also Rs 3,10,610/- was transferred to a bad debt account on 31.03.18. Hence paying Rs 1,30,000 which was not actual liability for the company to pay and not recovering back and then writing it off in the same FY is a clear case of diversion of co.'s funds by CD and is a fraudulent transaction under Section 66 IBC. This writing off of Rs 3,10,610/- has led to the increase in Net loss for Nav jyoti Agro Foods Pvt Ltd in FY 17-18.

4.1.5. In their replies with respect to the aforementioned transactions, the respondent has furnished the following clarifications:-

4.1.5.1. In the collective reply filed by Respondent No. 1, 2, and 3, contentions that have been brought forward are as follows:

- a. **A.G. Enterprises:** The respondents have exercised due diligence by issuing demand notices on several dates on behalf of the corporate debtor and moreover legal notice through counsel was served to A.G. Enterprises. The demand notice and legal notice were replied to by A.G. Enterprises and a dispute regarding the quality of goods was raised by them. The respondents made all the bona fide efforts to recover the amount outstanding against A.G. Enterprises but due to the immense amount of court fees required to file a suit for recovery, the respondents were unable to file the suit as they were facing financial difficulties.
- b. **Haryana Agro Foods Product- Delhi:** The sale and purchase made through Haryana Agro Foods Product, Delhi were in the ordinary course of business and an advance of Rs. 88,56,144/- was made to the Haryana Agro Foods Product, Delhi for the purchase of goods and the corporate debtor to recover the balance outstanding against Haryana Agro Foods Product, Delhi. The respondents have exercised due diligence by issuing demand notices on several dates on behalf of the corporate debtor, served to the Haryana Agro Foods Product, Delhi. The demand notice and legal notice were replied to by Haryana Agro Foods Product, Delhi, and a dispute regarding deficiency in the amount advanced against the amount of the purchase order was raised. The respondents made all the bona fide efforts to recover the amount outstanding against Haryana Agro Foods Product, Delhi but due to the immense amount of court fees required to file suit for recovery, the respondents were unable to file the suit as they were facing financial difficulties. The observation of the applicant that Haryana Agro Foods Product, Delhi has been shown as a Good Debtor on 30.04.2018 and

31.03.2018 as per stock statements submitted to the bank with the wrong intention to avail the limit from the bank by incorporating those debtors in the debtors' list as on 30.04.2018 is totally incorrect whereas the above-said debtor was booked as bad debts on the recommendation of the statutory auditors on their observation till then the respondents were making all the efforts to recover the said amount from the debtors.

- c. **Nakul Trading Company-Delhi:** In the ordinary course of business Nakul Trading Company, Delhi, and the corporate debtor to recover the balance outstanding against Nakul Trading Company, Delhi the respondents have exercised due diligence by issuing demand notice on several dates on behalf of the corporate debtor and moreover legal notice through counsel were served to the Nakul Trading Company, Delhi(The demand notice and legal notice was replied by Nakul Trading Company, Delhi and dispute regarding the quality of goods was raised by them the same was duly replied by the respondents to their best knowledge and belief. The respondents made all the bona fide efforts to recover the amount outstanding against Nakul Trading Company, Delhi but due to the immense amount of court fees required to file suit for recovery, the respondents were facing financial difficulties.
- d. **Shiv Shakti Agro Foods Delhi:** The demand notice and legal notice were replied to by Shiv Shakti Agro Foods, Delhi and it was alleged by the debtor that the goods have to be collected by the corporate debtor against which the advance payment of Rs. 30,00,000/- was made to the Shiv Shakti Agro Foods, Delhi and due to non-cooperation of the corporate debtor the goods stored against the purchase order were deteriorated and were not remain fit

for human consumption and a settlement as alleged by the Shiv Shakti Agro Foods, Delhi was made according to which Rs. 12,64,988.20/- was refunded by the Shiv Shakti Agro Foods, Delhi which is totally incorrect, no such settlement was ever made between the corporate debtor and Shiv Shakti Agro Foods, Delhi and the same was duly replied to the Shiv Shakti Agro Foods, Delhi by the respondents. The respondents made all the bona fide efforts to recover the amount outstanding against ShivShakti Agro Foods, Delhi but due to the immense amount of court fees required to file suit for recovery, the respondents were unable to file the suit as they were facing financial difficulties.

- e. **Shri Mahadev Food Product - Delhi:** The demand notice and legal notice were replied to by Shri Mahadev Food Product, Delhi and it was alleged by the above-mentioned debtor that the goods were not of that quality which was shown at the time of making the purchase order as sample and further asked for the statements of accounts for the reconciliation of accounts and the same was duly replied and the fresh statement of accounts was provided to the Shri Mahadev Food Product, Delhi by the respondents. The respondents made all the bona fide efforts to recover the amount outstanding against Shri Mahadev Food Product, Delhi but due to the immense amount of court fees required to file suit for recovery, the respondents were unable to file the suit as they were facing financial difficulties.
- f. **Taj Trading Company - Delhi:** After the issue of the first demand notice on 10.01.2018 the Taj Trading Company, Delhi made a payment of Rs. 91,49,880/- on 16.01.2018 and further made a payment of Rs. 66,99,880/-

as on 07.02.2018 and sent a reply dated 08.02.2018 whereby issue regarding quality was raised by the Taj Trading Company, Delhi and the same was reply under the second demand notice by the respondents and demand of balance amount was also made there-under but due to immense amount of court fees required to file suit for recovery the respondents were unable to file the suit as they were facing financial difficulties.

- g. **Vijay Luxmi Enterprises:** The demand notice and legal notice issued by the applicant were replied to by Vijay Lakshmi Enterprises and a dispute regarding the quality of goods was raised by them the same was duly replied to by the respondents to the best of their knowledge and belief. The respondents also alleged that all the bona fide efforts to recover the amount outstanding against Vijay Luxni Enterprises but due to the immense amount of court fees required to file the suit as they were facing financial difficulties.
- h. **Virndavan Trading Company-Delhi:** After the issue of first demand notice on 01.01.2018 the Vrindavan Trading Company, Delhi made a payment of Rs. 46,00,000/- and Rs. 9,00,000/- on 04.01.2018 and sent a reply dated 25.01.2018 whereby issue regarding quality and mismatch of books accounts was raised by the Vrindavan Trading Company, Delhi and the same was reply under the second demand notice by the respondents and demand of balance amount was also made there under. The respondents made all the bona fide efforts to recover the amount outstanding against Vrindavan Trading Company, Delhi but due to the immense amount of court fees required to file the suit for recovery, the respondents were unable to file the suit as they were facing financial difficulties.

- i. **Kishan Kumar Pawan Kumar:** It is stated that the issue regarding quality and mismatch of books account was raised by Kishan Kumar Pawan Kumar and the same was replied to under the second demand notice by the respondents and demand of balance amount was also made thereunder. Due to financial difficulties on the side of the respondents, the respondent could not file the suit for recovery of the said amount.

#### 4.2 Excessive Rebate

4.2.1 The transaction audit report at Paragraph No. 18 refers to rebates in cash transactions with the following entities which were considered excessive by the transaction auditor:

Sr. No.	Party Name	Discount Amount	Total Sales	FY	% of Discount	Excess Discount
1.	Sunstar Overseas Ltd. Bahalgarh	7,50,091	1,37,25,410	16-17	5.46%	3,37,645.08
2.	PJS Overseas Ltd. Delhi	4,48,9581,	61,09,083	17-18	7.35%	2,65,745.11
3.	Nat Raj Sale Corporation	1,02,926	5,33,823	17-18	19.28%	86,906.38
4.	Priyanshu Enterprises Delhi	2,76,175	54,99,175	17-18	5.02%	1,11,083.33
5.	Shri Balaji Agro Foods Delhi	8,08,010	1,23,00,000	17-18	6.57%	4,39,110
6.	Raghu Nath Sahai Satish Kumar	1,07,647	22,95,327	17-18	4.69%	38,791.03
7.	Shri Krishan Udyog Delhi	1,19,568	15,73,425	18-19	7.60%	72,377.55
8.	Drg Foods	2,35,787	58,22,961	18-19	4.05%	61,141.09
9.	Star Global Multi Ventures Pvt. Ltd.	12,45,095	98,71,337.50	18-19	12.61%	9,48,635.54
	Total					23,61,435.11

4.2.2 It is stated by the Transaction Auditor that the gross profit ratio of the company was 2.30% to the sales whereas the corporate debtor has given discounts ranging up to 19.28% to the above parties. He has also pointed out that in view of the gross profit of 22.45% in the FY 2018-19, the discounts given to these parties ranging upto 12.61% looks suspicious.

#### 4.3 **Transactions with Cargil Agro International- Delhi**

It is pointed out by the Transaction Auditor that the total amount due from the aforementioned party from Cargil Agro International in FY 2017-18 is Rs. 10,79,460/- in the head office account and Rs. 5,40,66,009/- in the Branch Accounts totalling to Rs. 5,51,45,469/-. It is further pointed out that the said amount outstanding in the FY 2017-18 has not been collected in the FY 2018-19 upto the declaration of moratorium period dated 12.02.2019. It is further submitted that not receiving the amount even on discount price sale looks suspicious. It is also submitted that there is a wrong representation in the ITR for the assessment Year 2018-19. There is no debtor of the corporate debtor under the category of bad debt written off for an amount of Rs. 1 Lakh.

5. We have carefully perused each of the aforementioned accounts, and also observations made by the Transaction Auditor along with the explanation furnished by the respondents in this regard.

6. We have carefully gone through the compliance affidavit vide Diary No. 01081/4 dated 19.09.2023 containing the communication with the ten parties mentioned in Para 4 above. We noted the fact that these amounts represented either monies not paid for the sale affected by the corporate debtor or goods not delivered despite the advance of amounts being made by the corporate debtor. We note the fact that the

corporate debtor is an established player in the market and these write-offs appear to be very unusual compared to similar transactions carried out by the corporate debtor in the earlier years. It is also seen that the corporate debtor has not taken effective steps apart from sending communications to these parties to recover the amounts and the corporate debtor has written off these amounts after a lapse of a short period, i.e., within 1-2 years. Arbitrarily writing off debts within a short span just before the incidence of CIRP without making any effort to realise the amounts leads to a drastic reduction in the market value of the Corporate Debtor.

7. As regards the right of debts, we are of the view that this is contrary to the general business practice, where a businessman is expected to make all efforts to collect their dues from the parties to whom sales are made or advance for purchase has been given. A time period of two years is a short span for making all efforts to recover the dues of the corporate debtor. In the course of the present proceedings, a claim was made that legal notices have been sent to the debtors, on the direction of this Bench through its Administrative order, the same was placed on record. The claim of the respondents that they could not file a recovery suit and the corporate debtor has faced financial difficulties does not appear to be convincing, especially when the corporate debtor in the same financial year 2017-18 had invested surplus funds of nearly Rs.3.73 Crores in two immovable properties.

8. The respondent could not rebut the statement made by the applicant that the Income Tax return of the corporate debtor for the assessment year 2018-19, corresponding to the previous year 2017-18, does not indicate any bad debts written off for an amount of more than Rs. 1 lakhs. It is noticed that under the head 'Non-current Asset' in the Income Tax Return in the Assessment Year 2018 relating to the financial year 2017-18, the doubtful Trade Receivables are stated to be NIL. In

this context, there is no plausible explanation for such writing off of the debts in the Books of the Corporate debtor. In the present case, the fraudulent intent of the respondents becomes obvious as correct figures of receivable and write-offs have not been reflected in the Income Tax return filed by the CD under the management of the respondents- suspended directors in the relevant assessment years.

9. In this connection, we refer to the decision of the Hon'ble NCLAT in the matter of **Shri Baiju Trading and Investment Pvt. Ltd. Vs. Mr. Arihant Nenawati (Liquidator for Royal Refinery Pvt. Ltd.) & Ors., Company Appeal (AT) (Ins.) No. 699 of 2021 [Arising out of Order dated 29.01.2021 passed by NCLT, Mumbai Bench in I.A. No. 1125 of 2020 in C.P. No. 2556/MB/2019.]**, wherein it is observed as under:

*On a serious note, this Appellate Tribunal observes that in 2019 such huge loan was all of a sudden written off by the Respondent Nos. 2 & 3 from the books of the Corporate Debtor and evidently the Appellant is the principal/sole beneficiary. The plea of the Appellant made before us that it is a Corporate Debtor who has written off and not by the Appellant and therefore the Appellant should not be held liable for fraudulent transactions under Section 66 is not convincing at all. It is a matter of common prudence that if the money is written off from the books of the Corporate Debtor, there is hardly any chance for the management/ successor/ Resolution Professional to recover the same from the Appellant. There is no explanation which we can take into account either from the submissions of the Appellant or Respondent Nos. 2 & 3 as to why such write off was necessary and circumstances which led to this write off. Such transactions of giving huge amount to unconnected/unrelated parties and apparently without any security interest or bank guarantee as collateral security in favour of the Corporate Debtor and subsequently writing off the same from the book can only be termed nothing else but as fraudulent transactions done with the intent to defraud the creditors of the Corporate Debtor. From the averments as well*

*from the records made available, this Appellate Tribunal tend to agree with the Adjudicating Authority that the nature of the transactions are covered squarely under Section 66 of the Code, 2016.*

10. In view of the aforementioned facts, we are of the view that the corporate debtor has hastily written off the outstanding debts in respect of the aforementioned 10 parties mentioned in the Transaction Audit Report only to defraud the creditors.

11. With regard to the allegation of excessive discounts given to buyers. We note that several recourses including legal ones are available with the Corporate Debtor for recovery. We also note the fact that the corporate debtor was going through a financially challenging period. In the line of business of the corporate debtor giving discounts to sell the product is an established business practice. The auditor's observations are not supported by any concrete evidence of giving high rebates to any related parties nor does it give comparative figures in the same line of business. In view of these facts, we hold that these objections are based more on surmises and cannot be treated as fraudulent transactions under Section 66 of the Code.

12. With regard to the sales of Cargil Agro Enterprise and the non-recovery of an amount of Rs. 5,51,45,469/-, we note that the fact that the transactions have taken place has not been denied by the transaction auditor. It is only stated that the amounts have not been recovered by the corporate debtor till the initiation of the CIRP on 12.02.2019. It is not the case of the auditor that these amounts have been written off. These transactions are comparatively of a recent period i.e. pertaining to F.Y 2017-18 and there is every likelihood that, if pursued, the same can be recovered. We are, therefore, of the view that a mere delay in the realization of the amount would not render these transactions fraudulent under Section 66 of the Code.

13. In view of what is stated above we find that this is a fit case to grant the reliefs sought for by the liquidator with respect to the write-off of Rs. 17,42,22,739/-. We hereby declare Rs. 17,42,22,739/- shown in the financial statement of the Corporate Debtor as fraudulent transactions. The respondents are personally liable to pay the aforesaid amount to the account of the liquidator. Respondents 1 to 3 are therefore directed to pay the above amount Rs. 17,42,22,739/- to the account of the liquidator within a period of three months for distribution under Section 53 of I&B Code.

14. In view of the above, IA No. 909/2019 is partly allowed and stands disposed of accordingly.

Sd/-  
**(Subrata Kumar Dash)**  
**Member (Technical)**

Sd/-  
**(Harnam Singh Thakur)**  
**Member (Judicial)**

December 08, 2023  
RS