

**THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-I**

**IA 4619/2023**

Under Sections 66 of the Insolvency and  
Bankruptcy Code, 2016

**Mr. Santanu T Ray**  
(Resolution Professional)

**...Applicant**

V/s

**Sunil Kumar Trivedi & Ors.**

**...Respondent**

In the matter of

**COMPANY PETITION NO. 4738 OF 2018**

PLASTIBLENDS INDIA LIMITED

**...Petitioner**

V/s

NEO CORP INTERNATIONAL LIMITED

**...Respondent**

***Order delivered on: 09.01.2026***

***Coram:***

**Shri Prabhat Kumar**

Hon'ble Member (Technical)

**Shri Sushil Mahadeorao Kochey**

Hon'ble Member (Judicial)

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*Appearance:*

For the Applicant : Adv. Rohit Gupta, Mr. Urvaksh Baria,  
Adv. Abha Patel  
For the Respondent 1 & 2 : Adv. Viraj Parikh, Rrathamesh Nirkhne  
For the Respondent No.5 : Adv. Prisca Fernandes

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**ORDER**

1. This Application IA 4619/2023 was filed on 23.04.2024 by Mr. Santanu T Ray (Applicant), the **Resolution Professional** of Neo Corp International Limited ("**Corporate Debtor**") in Corporate Insolvency Resolution Process ("CIRP") under section 66 (1) read with section 60 (5) of the Insolvency and Bankruptcy Code 2016, seeking following reliefs:-
  - a. *This Hon'ble Tribunal may be pleased to allow this instant application;*
  - b. *To direct Respondent No. 1 to 4 to make contribution of Rs. 2,21,51,367/- for the benefit of the stakeholders of the corporate debtor, as the same was reported to have been fraudulently withdrawn in cash from the account of Punjab National Bank, in order to defraud the secured creditors;*
  - c. *To direct Respondent No. 1 to 4 to make contribution of Rs. 1,76,90,000/- for the benefit of the stakeholders of the corporate debtor, as the same was reported to have been expended as "other expenses" as reflecting in FY 2016-17, even though a lease agreement was entered into by the corporate debtor with Prism. Flexible Solutions Pvt. Ltd. wherein the manufacturing facilities of the corporate debtor was leased to Prism Flexible Solutions Pvt. Ltd. vide agreement dated 01/04/2016;*

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- d. To direct Respondent No. 1 to 4 to make contribution of Rs. 114,72,13,585/- for the benefit of the stakeholders of the corporate debtor, as the said Respondent had intentionally siphoned off money from the corporate debtor's bank account to unknown accounts which ranges from January 2012- May 2016 in order;
- e. To direct the Respondents 1 to 4 to make contribution of Rs. 2,50,09,29,173/- for the benefit of the creditors of the corporate debtor which has been transferred maliciously to the related parties of the corporate debtor;
- f. To direct the Respondents 1 to 4 to make contribution of Rs. 1,82,35,119/-, which has been illegally siphoned off by transfer of vehicles to the ex-employees or has undergone accidental damage as alleged;
- g. That the Hon'ble Tribunal be pleased to refer the matter to the Central Government (Ministry of Corporate Affairs) in terms of section 213 of the Companies Act, 2013 for investigating the affairs of the Corporate Debtor and for further investigating upon against the Respondent No.1 and 2 with respect to the invoices raised by the corporate debtor against its related parties to the tune of Rs. 91,67,74,589.48/-, where the proceeds pertaining to such exports have not been repatriated into India and involves contravention of FEMA, 1999;
- h. To direct the Respondent No. 1 to 5 to provide necessary information whether proceeds of sale were received with respect to the invoices raised for an amount of Rs. 21,45,408/- on customers for job work in the account of Prism Flexible Project

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*Solutions Private Limited and to make contribution of such proceeds for the benefit of the creditors of the corporate debtor. Further since these invoices were raised during the course of CIRP without disclosing the same to the Resolution Professional, the Applicant herein prays before the Hon'ble Tribunal to pass necessary orders under Section 70 of the Code, 2016;*

*i. Such further or other Order or Orders as this Hon'ble Tribunal may deem fit and proper in the ends of justice.*

2. Respondent No. 1 to 4 viz. Mr. Sunil Trivedi, Mr. Utkarsh Trivedi, Mr. Ladharam Patel, and Ms. Kiran Phulpagar are suspended directors of the Corporate Debtor and Respondent No. 5 is M/s Prism Flexible Solutions Private Limited (“PFSPL”), a company of which Respondent No. 1 was director from 2012 to 2016, and thereafter, the relatives of Respondent Nos. 1 and 2 were alleged to its shareholders / Directors and directly or indirectly controlling and managing its affairs.
3. The Corporate Insolvency Resolution Process of Neo Corp International Limited was initiated under Section 9 of the Insolvency & Bankruptcy Code, 2016 by Plastiblends India Limited and the CIRP commenced by an order dated 19/09/2019 passed in CP (IB) No. 4738/IBC/NCLT/MB/2018 by this Tribunal. The Applicant was appointed as Resolution Professional in the first COC Meeting held on 19/10/2019.
4. In 3rd Meeting of COC, the members of COC approved the appoint Secmark Consultants Pvt. Ltd. as transaction auditor for conducting the transaction audit of the Corporate Debtor for a period of 2 years from FY 2013-14, and accordingly it was

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appointed on 13.12.2019 to conduct the transaction audit for the corporate debtor and submitted its report dated 19.5.2020.

5. The Applicant has impugned the following transactions :
- a. Cash withdrawal from the Punjab National Bank to the tune of Rs. 2,21,51,367/- from 27.10.2014 to 11.07.2015 observed by the Transaction Auditor;
  - b. Drastic increase in 'other expenses' of the Corporate Debtor from Quarter 1 of FY 16-17 to Quarter 4 of FY 16-17. The increase in amount was from 2,48,00,000/- to 8,55,00,000/- in three quarters without any explanation as to increase in sales or manufacturing;
  - c. Rs. 114,72,13,585/- was transferred to unknown accounts which ranges from January 2016 to May 2016 until the bank account of the Corporate Debtor was seized by the Income Tax Department;
  - d. Extension of Bank Guarantee (vide Deed of Guarantee dated 11th October 2013) towards related party Sacos Indigo Pvt. Ltd. of Rs. 2,20,16,00,000/- in 2013 as per the books of the Corporate Debtor, and further transactions amounting to Rs. 25,23,46,542/- undertaken with related parties without any supporting documents;
  - e. Vehicles amounting to 1,82,35,119/- are written off in the books either as 'Accidental Damage' or 'Transferred to ex-employees';
  - f. The Corporate Debtor has made exports to its related parties to the tune of Rs. 91,67,74,589/- from FY 2011-2016, however,

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the proceeds of the same have not been repatriated to India thereby violating principles of FEMA, 1999;

g. The proceeds of sale post CIRP amounting to Rs. 21,45,408/- were not directed to the Corporate Debtor.

6. It is stated that since the inception of CIRP, the suspended directors have been non-cooperative towards the former Interim Resolution Professional and the Applicant and thereafter an application under Section 19(2) of the Code was filed before the Hon'ble NCLT, Mumbai, however, till date the suspended Directors of the corporate debtor has ignored and failed to provide the books of accounts of the corporate debtor. It is further stated that the suspended management have neither filed the financial statements / annual returns with the Registrar of Companies or BSE nor filed any income tax returns from the FY 2016-2017 onwards, therefore based on the limited co-operation provided by the suspended management and the transaction audit report prepared by the transaction auditor, the present application is being filed.

7. The Respondents No. 1 and 2 have filed common reply and were represented by their counsel in the hearing, however, no other respondents has filed any reply. The Respondent No. 1 & 2 have pleaded that the financial records of the corporate debtor were seized by the Income Tax Department in a search operation carried out in terms of Section 132 of the Income Tax act, 1961 and have placed on record a panchnama dated 3.3.2015 drawn pursuant to said search operation commencing from 27.2.2015. The Respondent No. 1 and 2 have also submitted that *most of the transactions that are alleged to be fraudulent relate to a period*

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*much prior to the commencement of CIRP and are well beyond the look-back period as the transactions relate back to a period mostly prior to 2016, and the applicant has not impugned any transaction during the look-back period. It is also submitted that the period in relation to which the transactions have been alleged to be fraudulent are when the books of the Corporate Debtor {a listed company} were duly audited and uploaded on the stock exchanges. It is also submitted that the Corporate Debtor turned NPA after 31st March 2016, and there is nothing to demonstrate that the Corporate Debtor was in financial difficulty prior to that, therefore, it cannot be said that the mandatory requirement of Section 66(2) is met. It is also contended that section 66 of the Code requires the RP to demonstrate that a transaction has been carried out (i) knowingly and (ii) with the intent to defraud creditors or (iii) for any fraudulent purpose. It is also contended that sections 66(1) and 66(2) are limited to passing an order against the promoters for making contribution, and no investigation or direction of disclosure can be ordered in these provisions.*

8. Heard the learned counsel and perused the material on record.
9. Indubitably, the present application has been filed on basis of audited financial statements as on 31.3.2016 and unaudited statements for FY 2016-17 available with the Applicant as well as the transaction auditor. The panchnama drawn by Income Tax Search team reveals that the servers, including SAP server storing data in relation to Corporate Debtor, were seized. This Tribunal had requested the concerned office of Director General as well Director of Investigation, Indore to make available certified copies

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of the records vide order(s) orders dated 20th January 2025, 11th March 2025, 2nd April 2025, 5th May 2025, 11th June 2025, 18th August 2025, and 30th October 2025, however, the Ld. Counsel for the applicant submitted that the said records is still wanting and requested to proceed further in the matter.

10. It is pertinent to note that no effort was carried out by the applicant to collate the bank statements and records and other relevant documents and information from persons specified in Regulation 4 of CIRP Regulations, which enabled the Resolution Professional as well to do so after its amendment from 14.7.2021. The applicant, instead of compiling the books of accounts on basis of such records, kept waiting for co-operation of the respondents, who already had already found solace in having records of corporate debtor under seizure with Income Tax Authorities, while the respondents could have exercised their statutory right to have cloned copy of server records. The inaction on part of the respondents can be understood considering that it suited their objective of avoiding the consequences arising from the availability of information and transfer of manufacturing facilities on lease to Respondent No. 5 from 1.4.2016 to keep their business going. The heavy dependence of insolvency professional on provision of financial information from the suspended board requires proper training of the insolvency professional as well as CoC members so that they may explore alternative available avenues, which are readily there with third persons in this digital era, to assimilate historical financial information in relation to corporate debtor. The IBBI may look into this aspect and consider disseminating proper advisory to Insolvency Professionals to do so and to the Financial Creditors/CoC members to insist upon the same by

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having regular updates from insolvency professional in their meetings on this aspect.

11. At this juncture, it is pertinent to note that the search operations were carried out on 27.2.2015 and the records, including SAP records were seized on 3.3.2015. There is no qualification in the audit report for the year ended 31.3.2016 that books of account were not produced before the auditors. Instead, the auditors have stated at para 8 of their report that *“The Company has maintained its account on a highly integrated computerized software system namely "SAP" but the books of accounts generated through the software system differs /ram the Indian traditional formats of the books of accounts. However, on the basis of viewing the data and report generated in the computerized form, we conducted our audit. We are of the view that the appropriate feeding of the primary data from the corresponding source documents, their processing on SAP and resultant trial balance generated by the system provide a reasonable basis for us in expressing our opinion on the standalone financial statements under reference to this report.”* This contradicts the stand taken by the suspended board that the corporate debtor had no record as the same was seized by the income tax department. The explanation offered by the suspended board is patently false. Further, the Respondents have stated that financial statements for financial year 2016-17 could not be filed as its auditors were arrested in another matter, and in absence of Noc from previous auditors, they could not engage another auditor in view of mandate contained as per Clause 8 Part 1 of the First Schedule of Chartered Accountants Act, 1949. Though, this explanation is also patently false, as said provision only requires an incoming

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auditor to communicate with the outgoing auditor only, but this does not support the excuse of seizure of records by Income Tax Authorities, the suspended board members had taken to deny provision of accounting records for the subsequent periods along with supporting documents thereof.

12. Nonetheless, we consider it appropriate to proceed on basis of evidences/pleadings placed before us for adjudication of impugned transactions.

13. As regards cash withdrawal from the Punjab National Bank to the tune of Rs. 2,21,51,367/- from 27.10.2014 to 11.07.2015 observed by the Transaction Auditor, it is noted that the books of account for the year ended on 31.3.2016 were duly audited and the cash in hand as on 31.3.2016 is stated as Rs. 36,40,987/-. It is not case of the applicant that the cash so withdrawn was not accounted for in the cash books, accordingly, the said cash in hand accounts these alleged withdrawals. Hence, the transaction of withdrawal per-se can not be impugned as fraudulent after such withdrawal having been recorded for in the books of accounts. Vide order dated 11.12.2025, this Tribunal, after hearing the parties, directed them to indicate the amount of cash in hand available as on CIRP commencement date with the Corporate Debtor and whether such cash was handed over to RP or not. The Respondent No. 1 and 2 have, instead of providing the said information, have conveniently ignored it by stating that it is not the RP's allegation that cash available at the commencement of CIRP has not been handed over to the RP. It is pertinent to note that, even the Respondent No. 1 & 2 have not contended that the cash in hand as reflected in the financial statements as on

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commencement of CIRP were handed over. Since, the financial statement for the year ended 31.3.2016 has only been placed on record and it reflects cash in hand as Rs. Rs. 36,40,987/-, which ought to have been made available to the applicant on commencement of CIRP or in alternate, the suspended board ought to have given account thereof, we consider it appropriate to direct Respondent No. 1 to 4 to jointly or severally contribute this amount to the assets of the Corporate Debtor along with interest @ 12% p.a. from 1.4.2016 within 30 days.

14. As regards drastic increase in 'other expenses' of 2,48,00,000/- in Quarter 1 of FY 16-17 to Rs. 8,55,00,000/- in Quarter 4 of FY 16-17, the applicant has sought an order for contribution of Rs. 1,76,90,000/-, however, the applicant has not provided any basis therefor. The applicant has alleged these expenses fraudulent on basis of financial results reported to BSE by the Corporate Debtor stating that showing drastic increase of expenses from Quarter 1 of FY 2016-17 to Quarter 4 of FY 2016-17 and providing no explanation with respect to increase in 'other expense is suspicious in nature and is done with a mala-fide intention to defraud the creditors of the corporate debtor. However, it is made clear that these expenses cannot be held to be genuine as well considering the manufacturing facilities of the corporate debtor were leased out from 1.4.2016 to Respondent No. 5, and this prayer is not considered solely for the reasons that the applicant has failed to substantiate the basis of determination of amount. Accordingly, in the absence of any details of these expenditure, we do not consider it appropriate to hold it as fraudulent in the absence of any basis of determination of impugned amount.

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15. As regards transfer of Rs. 114,72,13,585/- unknown accounts which ranges from January 2016 to May 2016 until the bank account of the Corporate Debtor was seized by the Income Tax Department, it is noted that the Transaction Auditor has listed the extract of bank statements, where the name of payee could not be ascertained. It is noted that the financial statements for the year ended 31.3.2016 is duly audited and the auditor has not commented in its report that any bank transaction was found unrecorded. Accordingly, it cannot be that a transfer is made from the bank account of the Corporate Debtor and the same is not duly recorded in its books of accounts. Nonetheless, neither the auditor nor the applicant made any inquiry from the relevant bank to ascertain the details of payee, which has to be available in records of payee bank, to ascertain the correct beneficiary of amounts and make determination accordingly. Accordingly, we are of considered view that no order can be passed in relation to this transaction.
16. As regards provision of Bank Guarantee (vide Deed of Guarantee dated 11th October 2013) of Rs. 2,20,16,00,000/- in 2013 towards related party Sacos Indigo Pvt. Ltd., it is noted that said company is a subsidiary of the Corporate Debtor. It is not case of the applicant that Rs.220 Crores was paid by the Corporate Debtor to the subsidiary. Further, the provision of bank guarantee for the business of subsidiary per se can not be said to be a fraudulent transaction. as per the books of the Corporate Debtor. As regards further transactions amounting to Rs. 25,23,46,542/- undertaken with related parties without any supporting documents, these transactions pertain to financial year 2013-14 and 2014-15 and the applicant has listed payments
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in nature of lease charges, remuneration, sale and purchase transaction with related parties. The financial statements of these years have been duly audited. Merely because, these transactions were entered with related parties, it can not be said that these transactions were entered to defraud the creditors, more so when these transactions are regular and duly recorded in the books of accounts and there is no adverse inference from any tax authorities in relation to these transactions. Accordingly, we are of considered view that no order can be passed in relation to this transaction.

17. As regards, vehicles amounting to 1,82,35,119/- written off in the books either as 'Accidental Damage' or 'Transferred to ex-employees, this Tribunal had directed the parties to furnish the ownership details of the car/vehicles, in question, in RTO portal as on date along with date of its transfer from corporate debtor in the records. Though, the Respondent No. 1 & 2 have not furnished the date of such transfer, however, they have provided the downloaded copy of motor vehicle registration in respect of these vehicles and following details giving name of its current owner :

**THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-I**

**IA 4619/2023  
IN  
COMPANY PETITION NO. 4738 OF 2018**

**Annexure – “A”**

<b>Sr. No.</b>	<b>Asset Name</b>	<b>Registration No.</b>	<b>Current Owner</b>
1.	Skoda Rapid Elegance	MP 09 CP 9088	Prism Flexible Solutions Pvt. Ltd.
2.	Innova	MP 09 CB 3918	Neo Sack Ltd. Export Division
3.	Eicher Bus	MP 09 FA 2643	Neo Corp International Ltd.
4.	Honda Jazz	MP 09 CE 2707	Rajeev Singh (Ex-employee)
5.	Eicher Loading	MP 09 GE 2691	Neo Sack Ltd. Export Division
6.	Maruti Swift	MP 09 CK 5688	Jagdish Mohan Prasad (Ex-employee)
7.	Tata Indigo	MP 09 CK 9588	Neo Corp International Ltd.
8.	Indica Vista	MP 09 CJ 4088	Malkhan Singh Mewada (Ex-employee)
9.	TATA Ace	MP 09 LN 9658	Neo Corp International Ltd.
10.	Hero Deux Motor Cycle	MP 09 QE 2788	Neo Corp International Ltd.
11.	Access Suzuki 125	MP 09 SQ 3188	Neo Corp International Ltd.

18. From the above table, it is clear that above cars, except at sl. No. 4 and 8 transferred to employees & at sl. No. 3, 7, 9 to 11 standing in name of the corporate debtor, have been transferred to associate companies, including respondent No. 5 (which was stated to be transferred to ex-employee as explained earlier to the applicant). Further, no details has been provided in relation to Car Jaguar, Elantra Car 1.6 SX (AT), Ford ECO Sport, Eicher Bus-FA- 2643, and Nissan Micra. The remaining vehicles in relation

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to which details have not been provided by Respondent No. 1 & 2 consequent upon direction by us are stated to be transferred to employees or damaged in accident. Considering these facts, it can not be denied that the vehicles listed in above table, except at sl. No. 4 & 8 as well as sl. No. 3, 7, 9 to 11, as well as Car Jaguar, Elantra Car 1.6 SX (AT), Ford ECO Sport, Eicher Bus-FA- 2643, and Nissan Micra have been transferred by the suspended board, which is in itself a fraudulent conduct in view of section 66(2) of the Code. Further, the absence of details of insurance claims lodged in relation to vehicles stated to be damaged in accident, also leads to an inevitable conclusion that those vehicles claimed to be damaged were also siphoned off by the suspended board. Accordingly, we consider it appropriate to direct the applicant to determine the written down value of each such vehicle, after apply depreciation @ 15% p.a. on written down value, as on 31.3.2016. Respondent No. 1 to 4 shall be jointly or severally liable to contribute the sum so arrived at along with interest @ 12% p.a. thereon from 1.4.2016 within 30 days. As regards vehicle sl. No. 3, 7, 9 to 11 standing in name of the corporate debtor above, the Respondents shall provide the details of those vehicles and hand over the same within 15 days to the Applicant, failing which they shall be liable to contribute written down value of vehicles, standing in name of corporate debtor but not handed over, in the same manner as explained above.

19. As regards non realisation of debtors amounting to Rs. 91,67,74,589/- due from the related parties against exports made by the corporate debtor from FY 2011-2016, it is stated that the proceeds of the same have not been repatriated to India thereby violating principles of FEMA, 1999. It is explained by Respondent

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No. 1 and 2 that the related-party-transactions (RPTs) mentioned by the applicants are nothing but the divisions of the Corporate Debtor except for Sacos Indigo Private Limited which was a wholly owned subsidiary (Sacos). It is noted that the applicant has listed four entities from whom the export proceeds are to be received. As explained by the Respondent No. 1 & 2, three parties named therein are divisions or corporate debtor itself, which we find substantiated after referring to the names, as one of them is corporate debtor itself, another two are stated to be division as financial statements for the year ended on 31.3.2016. Further, it is noted from the application that a sum of Rs. 35.50 crore is due from the subsidiary and as against it only Rs. 0.46 crores have been received lying as unappropriated as claimed by the Respondent. The applicant has not explained if any effort was made to recover the said amounts from the subsidiary company and whether any correspondence was exchanged after commencement of CIRP. If the said amount is recoverable and acknowledged by the subsidiary, the applicant ought to make efforts to realise the same. Accordingly, we are of considered view that no order can be passed in relation to this transaction.

20. As regards the proceeds of sale post CIRP amounting to Rs. 21,45,408/- not directed to the Corporate Debtor, this transaction if happened is in violation of section 14 of IBC and is required to be recovered from the concerned party. In case, the concerned party fails to pay the same, the Respondent No. 1 to 4 shall jointly or severally pay the said amount within 30 days along with interest @ 12% p.a. from the date of this order.

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21. In terms of the above, IA 4619 of 2023 is partly allowed and disposed of.

-Sd/-

**Prabhat Kumar**  
Member (Technical)

-Sd/-

**Sushil Mahadeorao Kochey**  
Member (Judicial)