

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI**
(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)

IA (IBC)/401/2022 in
CP (IB)/4/7/AMR/2021

**Application under Sections 66 and 25(2)(j)
of Insolvency and Bankruptcy Code, 2016
read with Rules 11 and 13 of the National
Company Law Tribunal Rules, 2016**

IN THE MATTER OF:

Indian Renewable Energy Development Agency Limited (IREDA)
..... Financial Creditor

AND

M/s Saradambika Power Plant Private Limited
..... Corporate Debtor

Between:

Liquidator of M/s Saradambika Power Plant Private Limited

Mr. Charudutt Marathe.

Gomed, 915, Khare Town, Dharampeth,
Nagpur-440010, Maharashtra.

..... Applicant

AND

1. Mr. Satya Srinivasa Boyina,

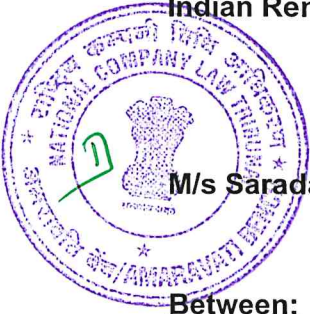
Director (Power Suspended),
Door No. 8-4-12-/3, Raja Complex, GT Road,
Srikakulam-532001, Andhra Pradesh.

..... Respondent No. 1

2. Mrs. Sarada Boyina,

Director (Power Suspended)
Plot No. 29, Co-operative Society,
Konna Street, Sana Street, Balaga Ward,
Srikakulam-532001, Andhra Pradesh.

..... Respondent No. 2



3. Ms. Saiswapna Boyina,

Director (Power Suspended)
Plot No. 15, Radha Krishna Colony,
Near Konna Street, Opp. PSNMH School,
Srikakulam-532001, Andhra Pradesh.

..... Respondent No. 3

4. Mr. Venkateswara Rao Vanapalli,

Director (Power Suspended)
Door No. 5-6, Prathipadupentapadu Mandalam,
West Godavari-534146, Andhra Pradesh.

..... Respondent No. 4

5. Mr. Govindharajulu Boyina

Director (Power Suspended)
Plot No. 29, Co-operative Society,
Konna Street, Sana Street, Balaga Ward,
Srikakulam-532001, Andhra Pradesh.

..... Respondent No. 5

6. Mr. Pallalah Vanapalli

Director (Power Suspended)
Door No. 5-6, Prathipadupentapadu Mandalam,
West Godavari-534146, Andhra Pradesh.

..... Respondent No. 6

7. Mr. Narayana Vanapalli Rao

Director (Power Suspended)
Door No. 5-6, Prathipadupentapadu Mandalam,
West Godavari-534146, Andhra Pradesh.

..... Respondent No. 7

8. Mr. Anantha Patnaikuni Ravi Shankar Kanakrao

Dasudugari Street, Kotabommali,
Srikakulam, Andhra Pradesh.

..... Respondent No. 8

9. M/s Sai Baba Agro Fuels

Azad Ward, Near Badi Masjid,
Chimur District, Maharashtra.

..... Respondent No.9

ORDER DELIVERED ON: 27.02.2026

Coram: HON'BLE SHRI KISHORE VEMULAPALLI, MEMBER (JUDICIAL)
HON'BLE SHRI UMESH KUMAR SHUKLA, MEMBER (TECHNICAL)

PARTIES/COUNSELS APPEARANCE:

Applicant/ Liquidator : Mr. Charudutt Marathe
For the Liquidator : Mr. Amir Bavani, Advocate
For the R-1, R-2 & R-5 : Mr. M.M. Viswaraj, Advocate.

ORDER
PER: BENCH

The Interlocutory Application bearing no. IA(IBC)/401/2022 (hereinafter referred to as the "IA 401/2022" or "IA") was originally e-filed on 27.12.2022 and physically filed on 23.12.2022 vide Diary No. 1488 by Shri Charudutt Marathe, Resolution Professional (hereinafter referred to as the "Applicant" or "RP" or the "erstwhile RP") of the M/s. Saradambika Power Plant Private Limited (hereinafter referred to as the "Corporate Debtor") under Sections 66 and 25(2)(j) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "IBC" or "Code") read with Rules 11 and 13 of the National Company Law Tribunal Rules, 2016 (hereinafter referred to as the "NCLT Rules") seeking the following reliefs against the Respondents:

1. Allow the instant application;
2. To declare the transactions in the Special Audit Report as Fraudulent Transactions;
3. Direct the Respondents to make contribution to the assets of the Corporate Debtor equivalent to the sums as stated in this Application w.r.t the benefits wrongly availed from the Corporate Debtor as this Hon'ble Tribunal may deem fit;
4. Pass appropriate directions in terms of Sections 66 and 67 of the Code including for recovery and restoration of legitimate amounts due to the Corporate Debtor; and
5. To pass any other order(s) as this Hon'ble Tribunal may deem fit in view of the facts and circumstances of the present case.

2. Subsequently, this Adjudicating Authority vide Order dated 03.02.2023 in IA (IBC)/340/2022 initiated the liquidation of the Corporate Debtor and appointed Mr. Charudutt Pandhrinath Marathe as the Liquidator (hereinafter referred to as the “Liquidator”) to conduct the liquidation proceedings.

3. During the course of hearing dated 23.07.2024, at the request of the Liquidator, time was granted for filing the amendment of the cause title of the Application. Pursuant to the above, the Liquidator filed the amended neat copy of Application vide Diary No.383 dated 10.03.2025 along with Memo for amending the cause title vide Diary No.384 dated 10.03.2025, vide which the title of the Applicant was replaced from the RP to the Liquidator.

4. The registered office of the Corporate Debtor is at Plot No.15, Radha Krishna Nagar Colony, Near Konna Street, Opposite PSNMH School, Srikakulam-532001, Andhra Pradesh. Therefore, the subject matter of this Application is under the territorial jurisdiction of this Adjudicating Authority.

FACTS OF THE CASE:

5. The facts of the case, as stated in the IA 401/2022, are summarised below:


- (i) The Respondent Nos.1 to 7 herein i.e., Mr. Satya Srinivasa Boyina (hereinafter referred to as the “Respondent No. 1” or “R-1”), Mrs. Sarada Boyina (hereinafter referred to as the “Respondent No.2” or “R-2”), Ms. Saiswapna Boyina (hereinafter referred to as the “Respondent No. 3” or “R-3”), Mr. Venkateswara Rao Vanapalli (hereinafter referred to as the “Respondent No. 4” or “R-4”), Mr. Govindharajulu Boyina (hereinafter referred to as the “Respondent No. 5” or “R-5”), Mr. Pallaiah Vanapalli (hereinafter referred to as the “Respondent No. 6” or “R-6”), and Mr.

Narayana Vanapalli Rao (hereinafter referred to as the “**Respondent No. 7**” or “**R-7**”) are the Suspended Directors i.e., the erstwhile management of the Corporate Debtor. The Respondent No. 8 and 9 herein i.e. Mr. Anantha Patnaikuni Ravi Shankar Kanakrao (hereinafter referred to as the “**Respondent No. 8**” or “**R-8**”) and M/s. Sai Baba Agro Fuels (hereinafter referred to as the “**Respondent No. 9**” or “**R-9**”) are the beneficiaries of the fraudulent transactions. The designations of the R-1 to R-7 are reflected in the master data of the Corporate Debtor as available on the Ministry of Corporate Affairs (hereinafter referred to as the “**MCA**”) website.



- (ii) A Petition under Section 7 of the IBC was filed by Indian Renewable Energy Development Agency Limited (hereinafter referred to as the “**IREDA**” or the “**Financial Creditor**”). The said Petition was admitted by this Adjudicating Authority vide order dated 18.04.2022, thereby initiating the Corporate Insolvency Resolution Process (hereinafter referred to as the “**CIRP**”) of the Corporate Debtor. The Applicant was appointed as the IRP under the same order and was subsequently confirmed as the RP by the Committee of Creditors (hereinafter referred to as the “**CoC**”) in its 1st meeting held on 17.05.2022.
- (iii) During the 1st CoC meeting held on 17.05.2022, the RP apprised the CoC about communications addressed to the erstwhile Board of Directors through emails dated 23.04.2022 and 01.05.2022, informing them of the admission order passed by this Adjudicating Authority vide which the RP informed the erstwhile Board that consequent upon admission of the CIRP, the powers of the Board of Directors stood suspended and vested in him and also sought cooperation from the suspended management and

requested furnishing of relevant data and records necessary for the conduct of the CIRP. The RP further informed the Board of Directors that a public announcement was made on 21.04.2022 in Business Standard (English Daily) and Sakal (Marathi Daily), circulating in the vicinity of the plant location, calling upon creditors to submit their claims in accordance with the CIRP Regulations. The copies of the aforesaid emails and the public announcement are annexed as Annexure A-4 (Colly.) to of the present IA.

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- (iv) In terms of Regulation 35A(3A) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as the “CIRP Regulations”), the RP is required to form an opinion on preferential, undervalued, extortionate and fraudulent transactions within 75 days, determine such transactions within 115 days, and file an appropriate application before this Adjudicating Authority within 130 days from the insolvency commencement date.
- (v) In discharge of his statutory duties under Section 25 of the IBC, particularly Section 25(2)(j), the RP examined the available books of accounts and records of the Corporate Debtor and formed a prima facie view that certain irregular transactions were undertaken by the Corporate Debtor prior to commencement of the CIRP and within the relevant look-back period prescribed under the Code. The suspicion of irregular and fraudulent conduct was further strengthened due to the consistent non-cooperation of the erstwhile management, who failed to provide requisite documents and information, thereby obstructing the smooth conduct of the CIRP.

(vi) Consequently, the RP filed IA No. 235 of 2022 under Section 19(2) of the Code seeking directions for cooperation, which was allowed by this Adjudicating Authority vide its Order dated 23.11.2022 (copy annexed as Annexure A-5 of this IA), pursuant to which the RP informed all concerned parties and reiterated requests for submission of documents and information, however, the Respondents failed to comply the aforesaid Order and have not furnished the required records till date..

(vii) In the matter at hand, the delay in filing the present IA has occurred solely due to non-availability of relevant information and documents, which were required to be furnished by the Respondents, as the RP struggled to collate the relevant documents/ information pertaining to the fraudulent transactions and such circumstances were entirely beyond the control of the Applicant. In this regard, the reliance is placed on the Judgement of the Hon'ble Supreme Court, in the matter of ***Arcelor Mittal India Pvt. Ltd. vs. Satish Kumar Gupta & Ors. (Civil Appeal Nos. 9402–9405 of 2018)***, wherein it has been categorically held that the model timelines prescribed under the IBC are required to be followed as closely as possible; however, the same are not mandatory but directory in nature, keeping in view the legislative intent. Considering the said judgment, it is averred that the timelines prescribed under Regulation 35A of the CIRP Regulations are directory in nature and cannot be construed as a deadline. Further, in the matter of, ***Aditya Kumar Tibrewal vs. Om Prakash Pandey & Ors., [Company Appeal (AT) Insolvency No.583 of 2021]***, the Hon'ble National Company Law Appellate Tribunal, New Delhi Bench, held that:

"11. (viii) Regulation 35A of the CIRP Regulations imposes a duty on the Resolution Professional to take measure within the timeline as prescribed in



performance of such duty the public in general has no control including the Corporate Debtor. In event it is held that any action taken by Resolution Professional beyond the time prescribed in Regulation 35A of the CIRP Regulations is prohibited, it shall cause serious general inconvenience or injustice to the Corporate Debtor. One of the objective of the Code is to maximise the assets of the Corporate Debtor. In event the actions taken by the Resolution Professional after the timeline prescribed in Regulation 35A of the CIRP Regulations are to be annulled, the undervalued and fraudulent transactions will go out of the reach of Resolution Process, reach of the Court and shall cause great inconvenience and injustice to Corporate Debtor. Hence, we are of the view that timeline prescribed in Regulation 35A of the CIRP Regulations is only directory and any action taken by the Resolution Professional beyond the time prescribed under Regulation 35A of the CIRP Regulations cannot be held to be non-est or void only on the ground that it is beyond the period prescribed under Regulation 35A of the CIRP Regulations. There may be genuine and valid reasons for Resolution Professional not to file application for avoiding the transactions within time prescribed which are question relating to each case and has to be examined on case-to-case basis and if there are reasons due to which the Resolution Professional could not file the Application within time the same has to be examined on merit."



(vii) The Corporate Debtor approached the IREDA seeking financial assistance for setting up a 10 MW biomass-based power plant. Pursuant thereto, IREDA sanctioned a term loan of Rs. 22,23,00,000/- vide sanction letter dated 16.01.2006 and executed the loan agreement with the Corporate Debtor. The sanction letter contained, inter alia, Clause 7(vii) and Clause 8(vi), mandating the opening and maintenance of a Trust and Retention Account (hereinafter referred to as the “**TRA**”) to be opened with a designated bank, which was required to be a party to the said agreement. Accordingly, a TRA Agreement was executed on 07.09.2006 between IREDA, Corporate Debtor and Andhra Bank. Further, the Corporate Debtor entered into a Power Purchase Agreement (hereinafter referred to as the “**PPA**”) with the Maharashtra State Electricity Distribution Company Limited (hereinafter referred to as the “**MSEDCL**”) on 25.09.2006 for sale of power generated by the plant. In compliance with the TRA mechanism, the Corporate Debtor opened an account with Andhra Bank, Srikakulam

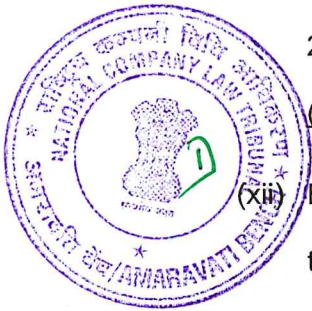
Branch, Andhra Pradesh, bearing A/c No. 051311011002130 (ANDB0000513), and communicated to the MSEDCL that the said account was the designated account for credit of sale proceeds under the TRA arrangement. The copies of the sanction letter dated 16.01.2006, TRA Agreement dated 07.09.2006 and PPA dated 25.09.2006 are annexed as Annexure A-6 (Colly.) of the IA.

- (ix) Further, the Andhra Bank also sanctioned loan assistance of Rs.2,50,00,000/- to the Corporate Debtor vide sanction letter dated 29.06.2007. The Corporate Debtor thereafter intimated MSEDCL about the TRA vide letter dated 06.08.2007. A document dated 07.08.2007 issued by R-5 was addressed to the MSEDCL to directly deposit the amount in the TRA. The MSEDCL agreed to credit the proceeds of the power purchased by the MSEDCL to the said account vide letter dated 10.09.2007. The copies of the sanction letter dated 29.06.2007 and letters dated 06.08.2007, 07.08.2007 & 10.09.2007 are annexed as Annexure A-7 (Colly.) of the IA.

- (x) The suspended management of the Corporate Debtor issued a letter dated 09.06.2015 to the MSEDCL directing that monthly power bill payments be credited directly into the Corporate Debtor's current account maintained with State Bank of India, Chimur Branch (hereinafter referred to as the "**SBI Chimur**"). Subsequently, Andhra Bank, vide letter dated 27.06.2017 addressed to the MSEDCL, categorically stated that as per the TRA Agreement, the authorized account for deposit of monthly payments was the TRA maintained with Andhra Bank and that crediting amounts to the SBI Chimur account constituted a violation of the TRA terms.

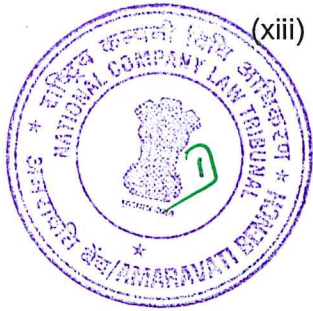


(xi) Further, vide another letter dated 27.06.2017 addressed to the SBI Chimur, the Andhra Bank intimated about the Cash Credit accounts in the names of the Corporate Debtor, R-8, and R-9. The Andhra Bank specifically stated that the sale proceeds from the MSEDCL were required to be credited only into the TRA and requested the SBI to close the said accounts. Additionally, Andhra Bank issued a letter dated 28.06.2017 to the MSEDCL stating that due to wrongful credit of amounts into SBI Chimur account instead of the TRA, the higher authorities sought details of bill realizations from June 2015 onwards. The copies of the letters dated 09.06.2015, 27.06.2017 (two letters), and 28.06.2017 are annexed as Annexure A-8 (Colly.) of the IA.



(xii) During the 3rd CoC meeting held on 09.09.2022, the RP informed the CoC that the suspended Directors had disclosed details of only one bank account of the Corporate Debtor, whereas other bank accounts through which funds were routed and utilized during the period of IREDA-funded operations had not been disclosed. The RP emphasized that all bank accounts and its transactions were material for effective administration of the CIRP. It was further stated that the dues of Andhra Bank were settled by the suspended Directors in December 2019 and January 2020 through a Compromise/ One Time Settlement (hereinafter referred to as the “OTS”). The Andhra Bank issued a letter dated 13.02.2020 confirming that the Corporate Debtor had repaid its entire liability and that no dues were outstanding, followed by issuance of a ‘No Objection Certificate’ (hereinafter referred to as the “NOC”) dated 24.02.2020. Despite this, the erstwhile management contended that only one bank account existed and

that other accounts had been closed. The RP submitted that even transactions of closed accounts were required to be examined for forming a view thereon. However, till date, the suspended Directors failed to disclose details of various bank accounts. The copies of the minutes of 3rd CoC meeting, OTS documents, letter dated 13.02.2020, NOC dated 24.02.2020 and email dated 08.09.2022 are annexed as Annexure A-9 (Colly.) of the IA.



(xiii) In the 4th CoC meeting held on 04.10.2022, the RP apprised the CoC that complete information was still awaited from the suspended Directors. The suspended Directors claimed that unaudited books of accounts were being compiled and data was being collated. The RP informed the CoC that only soft copies of Balance Sheets without Audit Reports had been provided. The RP reiterated the importance of disclosure of all bank accounts and transactions. The RP further informed the CoC that statements of account of the Financial Creditor had been received and shared with the Transaction Auditor, who had highlighted certain flash points and was in the process of finalizing the draft report. The minutes of the 4th CoC meeting are annexed as Annexure A-10 of the IA.

(xiv) In the 5th CoC meeting held on 13.10.2022, the RP informed the CoC that the Transaction Auditor had shared the Draft Audit Report. The report revealed that the suspended Directors had opened a Bank account bearing No. 30349806862 with SBI Chimur (IFSC: SBIN0011422) on 17.03.2008, subsequent to the creation and registration of charges in favour of IREDA and Andhra Bank. The Draft Report highlighted several transactional irregularities committed by the erstwhile management. In view thereof, the

CoC authorized the RP to initiate appropriate proceedings under the provisions of the Code. A copy of the 5th CoC meeting minutes is annexed as Annexure A-11 of the IA.

(xv) Clause 3.02(m) of the TRA Agreement expressly prohibits the Corporate Debtor from opening or operating any bank account other than the designated TRA for credit of sale proceeds arising from the project.

(xvi) The final Transaction Audit Report i.e., Special Audit Report dated 05.12.2022, was shared by the Transaction Auditor. The said report categorically records that the bank account maintained with SBI, Chimur, bearing Account No. 30349806862, was opened by the suspended Directors without the knowledge or consent of either of the lenders, namely IREDA and Andhra Bank, thereby constituting a clear breach of the TRA Agreement. It further reveals that until June 2015, power sale proceeds were duly credited into the designated TRA maintained with the Andhra Bank, Srikakulam Branch. However, pursuant to a letter dated 09.06.2015 issued by the suspended Directors to the MSEDCL, the payments were credited into the SBI Chimur account from June 2015 to September 2017 aggregating to Rs.57,21,54,822/- without being routed through the TRA.

(xvii) As per Clause 3.02(g) of the TRA Agreement, the receivables deposited/ credited into the designated account shall be appropriated for the purposes mentioned in the priorities mentioned in the TRA, which are as below:

- i. Raw material expenditure, O&M expenditure and charges payable to Trust Bank for services rendered as Trust Bank at 60% of the revenues per month.
- ii. Balance 40% revenues per month shall be made available for meeting the payments/ charges in the following order of priority: -
 - a. Charges including interest on loan, liquidated damages and any other monies/ dues payable by the borrower to the lender;
 - b. Principal amounts payable by the borrower under the loan agreement;

- c. *Topping up of the Debt Service Reserve Money equivalent to two instalments of principal and interest payable to the lender;*
- d. *Surplus, if any (other than Debt Service Reserve Money) will be allowed to overflow to the borrower.*

(xviii) As per above clause 3.02(g), the TRA provides waterfall providing 60% of the sale and proceeds to be used for raw materials (operations & management), which amounts to Rs.34,32,92,893/-, and 40% of sale proceeds to be used for loan interest and principal payments, which totals to an amount of Rs.22,88,61,929/-. The ex-management miserably failed to upkeep the terms of the TRA Agreement, as per Clause 3.02(g), Rs. 22,88,61,929/- i.e., 40% of the total amount of Rs.57,21,54,822/- should have been utilised towards the loan and interest repayment however, the said amount was never utilised to repay the dues of the Financial Creditors. The copy of the Special Audit Report dated 05.12.2022 are annexed as Annexure A-12 of the IA.



(xix) The bank transactions along with the dates of credit to bank account with SBI, Chimur, which should have been credited to TRA as per Agreement dated 07.09.2006, among IREDA, Corporate Debtor and Andhra Bank for the period of May 2015 - June 2017 are mentioned in the table below:

Date	Amount (Rs.)
25.08.2015	1,60,40,771
03.09.2015	2,23,00,051
14.10.2015	33,49,934
29.10.2015	2,65,30,408
17.11.2015	3,50,48,353
19.12.2015	2,92,91,042
13.01.2016	3,23,93,928
16.02.2016	3,56,66,362
22.03.2016	3,53,72,790
22.04.2016	65,54,213
22.04.2016	2,63,50,420

Date	Amount (Rs.)
18.05.2016	3,76,80,739
20.06.2016	1,05,17,014
19.07.2016	2,68,27,431
22.08.2016	1,38,92,549
22.09.2016	3,25,12,311
21.09.2016	36,12,234
24.10.2016	1,37,45,340
21.11.2016	2,29,62,271
22.12.2016	63,84,402
17.12.2016	34,91,242
24.01.2017	2,33,01,586
17.02.2017	2,89,59,578
15.03.2017	3,13,95,983
18.04.2017	2,47,52,383
24.05.2017	1,17,64,105
In June 2017	1,17,57,382
TOTAL	57,21,54,822

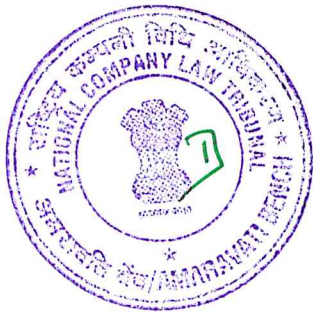


(xx) The above amounts are only from 25.08.2015 and any amount prior to the said date is not available due to the non-availability of bank statements for the period prior to 2015 and hence, the Applicant reserves his right to bring to the notice of this Adjudicating Authority about the said transactions prior to 2015 as and when the Applicant lays his hand on.

(xxi) According to the Special Audit Report, other irregularities in the finances were also found and the financials for the financial years 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21 show that certain amounts are recoverable from the following parties by the Corporate Debtor as on 31.03.2018:

Name	Receivable by CD	Status of Relationship
Sonal Industries	5,66,529.70	Suspicious Party
Nitin Marketing	13,00,000.00	Related Party of Sonal Industry
Nitin Sales	10,00,000.00	Related Party of Sonal Industry

- The dues are standing in the Balance Sheet without any movement, which raises a question on its recoverability.
- M/s. Sonal Industries has lodged a claim of Rs. 27,41,150/- pursuant to the notice in newspaper. The ledger provided by the Sonal Industries in support of this claim do not reconcile with the books of the Company.
- Assets (Brick Machine, probably) are sold by the Corporate Debtor in the financial year 2017-18, without permission and monies are still receivables as per the Balance Sheet for the financial year 2020-21, shared by the Corporate Debtor.
- CDM receivables, are the Carbon Credit Certificates, only book entry and no efforts for timely realization are made by the Corporate Debtor. These certificates are also not handed-over by the Corporate Debtor to the RP.
- As per the Financial Statement and Auditors Report, all these matters are not observed by the Auditors of the Corporate Debtor, in their report for the financial year 2015-16 despite being substantial in nature. This raises an alarm on the process followed by the Auditors.



(xxii) On perusing the bank statements provided by SBI Chimur, the Auditor came to know about two beneficiaries of the fraudulent transactions. The Bank statements that have been received shows payment to various raw material suppliers and other entities mainly:

- Shri Anantha Patnaikuni Ravi Shankar Kanakrao, PAN: AHIPA3222D, SBI Chimur Account No. 30496632317, resident of Andhra Pradesh.

- Sai Baba Agro Fuels (Prop. Shri. Imtejj Ahmed, PAN: ARWPA6734C, SBI Chimur Account No. 32327399904, resident of Chimur.

(xxiii) The Respondents in capacity as the ex-directors/ erstwhile management of the Corporate Debtor miserably failed to exercise due diligence reasonably expected of a person of such designation. Hence, the act of the Respondents, undertaking fraudulent high value transactions carried out under ordinary business shows wilful misconduct with an intent to defraud its creditors. In this respect, the **Hon'ble NCLT, Mumbai Bench in the case of Nandkishor Vishnupant Deshpande v. Worldwide Online Services Private Limited and Others [I.A. 1624/2020 in C.P. 2556/I&B/MB/2019]** held:



"23. Section 66 (1) imposes a liability on any persons who were knowingly parties to the carrying on of business with a dishonest intent to defraud creditors, to make contributions to the assets of the corporate debtor as per the order of the Adjudicating Authority.

25. The words used in section 66(1) i.e., "...the Adjudicating Authority may on the application of the resolution professional pass an order that any persons, who were knowingly parties to the carrying on of the business in such manner shall be liable to make such contributions to the assets of the corporate debtor as it may deem fit, shows that Adjudicating Authority has the power to demand contribution to the assets of the corporate debtor, from the defrauding party.

29. It is important to note that the directors cannot plead ignorance or lack of knowledge under Section 66(2). The directors have a twofold duty to ensure that the interests of the stakeholders are secured and to ensure that the company does not incur any further debts during the twilight period. Directors must also make an active effort in the rehabilitation and revival of the company."

(xxiv) The transactions in question were carried out with a specific intent to defraud the creditors of the Corporate Debtor, resulting in fraudulent benefit to the Respondents. On a prima facie basis, such transactions squarely fall within the scope and ambit of Section 66 of the Code. Accordingly, it is prayed to issue appropriate directions to the Respondents

to repay the benefits wrongfully received by them and to make good the losses caused to the Corporate Debtor and its creditors.

(xxv) If, during the CIRP, it is established that the business of the Corporate Debtor has been carried on with intent to defraud creditors or for any fraudulent purpose, this Adjudicating Authority is empowered to pass suitable orders under Sections 66 and 25(2)(j) of the Code. In view of the facts and circumstances established hereinabove, the Applicant is of the opinion that the business of the Corporate Debtor has been carried with a fraudulent intent, thereby warranting the instant Application.



(xxvi) The Applicant has diligently discharged all duties cast upon him under the Code and has taken all necessary steps to preserve and maximize the value of the assets of the Corporate Debtor.

REPLY BY THE RESPONDENTS:

6. This Adjudicating Authority vide its order dated 16.01.2023 directed the Applicant to issue the notice to the Respondents. In compliance of the above order, the Applicant vide Diary No.4073 dated 26.06.2023, filed the memo of service on the Respondents.

7. In the next hearing dated 01.02.2023, at the request of Counsels of both the Parties the matter was posted to 21.02.2023. During the course of hearing dated 11.04.2023, it was stated by the Applicant that despite service of notice, no one appeared for R4 and R7. Hence, the R4 and R7 were set as *ex-parte*. It was further stated by the Applicant that since the notice sent to the R6 and R9 was returned with an endorsement 'Addressee Left', therefore this Adjudicating Authority directed the

Applicant to take notice on the R6 and R9 by way of substitute service in two daily newspapers and file proof of service thereof.

8. In compliance of this Adjudicating Authority Order dated 11.04.2023, the Applicant filed Memo of Service vide Diary No.4073 dated 26.06.2023 enclosing the proof of paper publication against R-6 in Business Standard (English Edition) and Andhra Jyothi (Telugu Edition) both dated 07.06.2023.

9. During the hearings dated 21.02.2023, 14.03.2023, 11.04.2023, Mr. Maharshi Viswaraj, the Counsel undertook to file Vakalat on behalf of R-1 to R-3, R-5 and R-8.

10. Subsequently, Mr. Maharshi Viswaraj filed the Vakalat on behalf of R-1, R-2 & R-5 and Ms. G. Sumathi filed the Vakalat on behalf of the R-8 & R-9.

11. During the course of hearing dated 25.05.2023, it was observed that none appeared for the R3, therefore, the R3 was set as *ex-parte*.

12. During the course of hearing dated 27.06.2023, it was observed that that none appeared for the R6 in spite of service of notice, hence, the R6 was set as *ex-parte*. Further, the R-1, R-2, R-5, R-8 & R-9 sought and was granted time to file the Counter. During the next hearing dated 25.07.2023 and 18.08.2023, the R-1, R-2 and R-5 sought further time to file the Counter.

13. During the course of hearing dated 14.09.2023, it was observed that no Counters have been filed and no one appeared for the Respondents. Therefore, the Respondents were set as *ex-parte*.

14. During the subsequent hearing dated 16.10.2023, the Counsel for R-1, R-2 and R-5 present. However, during the subsequent hearings dated 09.11.2023,

06.12.2023, 04.01.2024, 31.01.2024, 01.03.2024, 10.05.2024 23.07.2024, 23.09.2024, 17.10.2024 and 10.12.2024 neither the Respondents nor any Counsel on their behalf appeared.

15. Subsequently, the R-1, R-2 & R-5 filed an Application bearing IA (IBC)/286/2024 vide e-filing dated 04.08.2024 (hereinafter referred to as the “**IA 286/2024**”) seeking to set aside the ex-parte order dated 14.09.2023 passed in IA 401/2022 and for their reinstatement in the original proceedings of IA 401/2022 and also stating that reply has been filed along with the set-aside IA 286/2024.

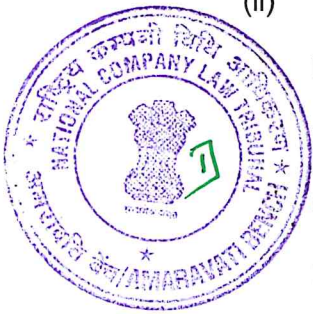
16. After hearing the R-1, R-2 and R-5 and no objection from the Liquidator, the ex-parte order dated 14.09.2023 was set aside, subject to payment of costs of Rs.25,000/- each and IA 286/2024 was allowed and disposed of vide this Adjudicating Authority Order dated 26.03.2025. Subsequently, the proof of payment of costs was filed by the R-1, R-2 and R-5 vide Diary No.1056 dated 03.06.2025.

17. The R-1, R-2 and R5 vide Diary No.1140 dated 06.08.2024 filed their reply. The contention made in their reply are summarised below:

- (i) This IA has been filed by the Applicant by placing reliance on the Transaction Audit Report dated 05.12.2022 issued by M/s. SVSG & Associates, which contains numerous disclaimers and some of the disclaimers, which are reproduced herein below, will clearly establish that the complete reliance on the said report by the Applicant for filing the instant IA under Section 66 of the Code is fallacious and moreover, this Adjudicating Authority cannot solely rely upon the said report for granting of reliefs prayed for in the instant IA. Some of the disclaimers set out in the Transaction Audit Report dated 05.12.2022 are given hereunder:

- *It is also required that we make reasonable assumption respecting disclosures/ details and data, if erroneous, may result in material difference in our findings and opinion (page 236 of the IA).*
- *While we believe that our assumptions provide reasonable basis for the review results, we make no representations or warranties respecting the appropriateness of our assumption, completeness of the information considered or the accuracy of the findings (page No.236 of the IA).*
- *Time allowed was insufficient to undertake complete review (page 236A of the IA).*
- *Our analysis is based on data, which is received from SPPPL, SBI, Andhra Bank & RP. If the data is erroneous our opinion will not hold true (page 236A of the IA).*
- *The company seems to have carried out fraudulent transactions as per Section 66 of IBC with its associates & sister concern. However, we can confirm this only on receipt of complete bank statements & complete accounting records (page 252 of the IA).*

- (ii) The reliefs sought by the Applicant in this IA are vague, hypothetical, and legally untenable. The Applicant has arrayed the suspended Directors of the Corporate Debtor as parties without attributing any specific role in relation to the impugned transactions. In the absence of clear pleadings or particulars establishing individual liability, the reliefs sought are vague, incomprehensible, and unsubstantiated, rendering the application liable to be dismissed at the threshold.
- (iii) The Respondents have discharged their duties with due care, prudence, and integrity, and have overseen and executed the entrusted projects in accordance with established business practices. The IA is based solely on allegations and presumptions, without any cogent evidence to substantiate the alleged wrongdoing or to demonstrate the involvement of the Respondents. In the absence of any material evidence, the allegations should be rejected and set aside for the reasons mentioned hereunder.
- (iv) This IA has been filed by the RP, and this Adjudicating Authority vide order dated 03.02.2023 has passed a liquidation order. Upon passing of the



liquidation order, the role of RP ceases, and in the absence of substitution of the Liquidator, the RP lacks locus standi and competence to prosecute this IA. Further, the IA is barred by limitation, having been filed beyond the timelines prescribed under Regulation 35A of CIRP Regulations. The IA essentially alleges breach of the TRA Agreement dated 07.09.2006 and fails to disclose any ingredients of Section 66 of the Code, and is therefore not maintainable.

(v) As per Clause 6.4 of the TRA Agreement, the consequences for breach of any conditions are as follows:



- A. *The Lender has the right to enforce the Security pertaining to the Loan.*
- B. *The Lender has the right to stop all overflows from the designated Account to the Borrowers Account.*
- C. *The lender has the right to accelerate the loan in a form and manner at the sole discretion of the Lender.*

(vi) Assuming without admitting that any breach of the TRA Agreement dated 07.09.2006 was committed by the Corporate Debtor, the remedy for such alleged breach lies exclusively with the Financial Creditor or the concerned bank in terms of Clause 6.4 of the said Agreement. As the RP is not a party to the Agreement therefore, he lacks locus standi. In any event, the allegations raised by the RP do not attract the provisions of Section 66 of the Code.

(vii) The Applicant has failed to establish even a prima facie case of fraudulent trading or wrongful trading. The present IA is malafide, vexatious, oppressive, and is nothing, but a dressed-up attempt to convert an alleged contractual dispute into proceedings under Section 66 of the Code. The averments in the IA predominantly relate to alleged breaches of the TRA

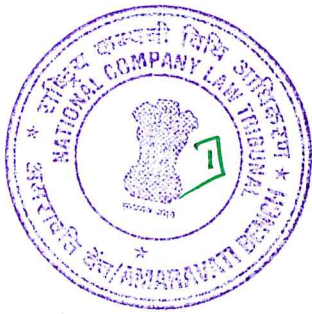
Agreement dated 07.09.2006, for which the appropriate remedy lies before the Civil Court.

- (viii) The power plant of the Corporate Debtor is situated at Chimur, District Chandrapur, Maharashtra, and all business operations were carried out from the office located within the plant premises. The TRA account was maintained with Andhra Bank, Srikakulam Branch, Andhra Pradesh. For operational convenience and smooth conduct of business, a current account was opened with SBI, Chimur, with the knowledge and consent of the lenders. The said consent was maintained in the office situated at the power plant premises, which is presently under the custody of the RP. The Respondents made efforts to obtain a copy of the said consent from SBI, Chimur; however, the bank declined to furnish the same on the ground that the Corporate Debtor is being represented by the RP.



- (ix) Further, the lenders were fully aware of the SBI Chimur account. The Corporate Debtor raised invoices on the MSEDCL and submitted the same to the Andhra Bank for bill discounting. The Andhra Bank credited the discounted amounts to the Corporate Debtor's account after deducting commission, and upon receipt of payments from the MSEDCL, the same were adjusted towards the loan account. These facts clearly demonstrate that the Corporate Debtor opened the account with SBI Chimur with the knowledge and consent of the lenders, and hence there is no breach of the TRA Agreement as alleged.
- (x) The Corporate Debtor has repaid substantial loan amounts to the tune of Rs.22,83,34,069/- during the financial year 2015-16 and Rs.36,41,64,300/- during the financial year 2016-17, the details of which are given hereunder:

2015-16	
Banks / Lenders	Amount (Rs.)
IREDA Loan	81,74,306.00
Andhra Bank – BIDD 016	18,45,53,520.00
Andhra Bank – Adhoc Loan	1,58,51,336.00
Andhra Bank – FIN TL	48,67,342.00
Andhra Bank – TL 1	5,07,172.00
Andhra Bank – TL 2	2,54,501.00
Andhra Bank – WCDL	10,20,655.00
Andhra Bank – WCTL	6,38,098.00
Andhra Bank – OCC	51,81,564.00
Interest Bill Discounting	72,85,575.00
Total	22,83,34,069.00
2016-17	
Banks / Lenders	Amount (Rs.)
IREDA Loan	2,97,00,000.00
Andhra Bank – BIDD 016	25,05,32,955.00
Andhra Bank – Adhoc Loan	1,63,65,296.00
Andhra Bank – FIN TL	1,42,80,425.00
Andhra Bank – TL 1	1,00,08,682.00
Andhra Bank – TL 2	37,24,938.00
Andhra Bank – WCDL	1,28,82,856.00
Andhra Bank – WCTL	1,12,41,174.00
Andhra Bank – OCC	48,19,719.00
Interest Bill Discounting	1,06,08,255.00
Total	36,41,64,300.00



- (xi) The Corporate Debtor cleared the dues of Andhra Bank under OTS in the year 2020. The promoters of the Corporate Debtor have, since inception, invested substantial funds and had made several efforts to sustain and revive the Corporate Debtor. During the financial years 2015-16 and 2016-17, the promoters and their relatives infused significant funds into the Corporate Debtor in the form of loans amounting to Rs.5,08,98,211/- and Rs.7,51,28,309/- respectively. These infusions were made with the sole intention of keeping the Corporate Debtor operational. However, despite such efforts, the escalating burden of interest and principal repayments, coupled with inadequate revenues, rendered the Corporate Debtor unable to service its debts. It is not even the Applicant's case that the Respondents siphoned off the funds of the Corporate Debtor. On the contrary, the

promoters acted bona fide and made all honest efforts to run the Corporate Debtor.

(xii) The allegation that the R-8 and R-9 are beneficiaries of the transactions is false and unsubstantiated. No particulars of any such alleged benefit have been furnished. In fact, the R-8 and R-9 are suppliers of raw materials to the Corporate Debtor, to whom substantial amounts are due, and the allegations are baseless and misleading.

(xiii) To paint a transaction as fraudulent or wrongful, the strict test of malafide intent and execution in pursuance thereof is necessary and the same criteria is not met in respect of the alleged fraudulent transactions averred in the IA. The fraudulent trading needs to meet the high standard of proof, which is attached to a fraudulent intent. The reliance is placed on the Judgement of the ***Hon'ble NCLAT in the matter of Renuka Devi***

Rangaswamy, IRP of Regen Infrastructure and Services Pvt Ltd Vs. Mr. Madhusudan Khemka and Ors., Company Appeal (AT) (CH) (INS)

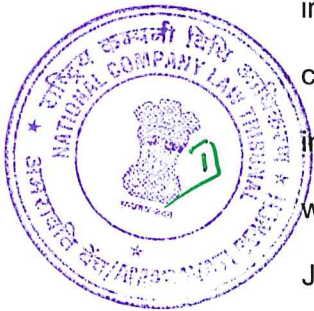
No. 356 of 2022, wherein it has been held as below:

"32. Before the 'Adjudicating Authority', the Respondent Nos. 1 and 2, took a stand that they had not gained personally anything, from any transaction, with the '1st Respondent' and the Appellant/ Applicant', had not produced any material/ proof, to substantiate the allegations, so made.

33. To be noted that, the expression 'Party to the carrying on business', indicates taking positive steps', in carrying on 'company's business', in a fraudulent manner'. The intent to 'defraud', is to be judged, by its effect' on a Person', who is the 'object of conduct', in question.

34. A preponderance of probability suffices', but the degree of probability must be such that the Tribunal', is satisfied and further that under Section 66 of the I & B Code, 2016, it is not essential to attract that there ought to be a 'Debtor' and a 'Creditor' relationship.

35. It must be borne in mind that for proving a 'Fraudulent Trading' needs meeting the High Standard of Proof, which is attached to a 'Fraudulent Intent'. A 'Director', of a 'Company', may be proceeded against for a 'Wrongful Trading', because of the reason of 'Negligent Failure of Management'. Besides this, 'a person',



knowingly a 'Party' to a Fraudulent Trading', by the 'Company' concerned, may be subject to the proceedings.

36. A Single Fraud', against `a person', may result in Civil Action in the Realm of Tort'. It does not lie in the mouth of `Directors of a Company', being accused of 'Fraudulent Trading', to allege that the Company's Claim', for recovery in Civil Action is barred.

37. Dishonesty', is an essential ingredient of `Fraudulent Trading'. The Aspect of Dishonesty', is to be established and it cannot be inferred in any manner. Whether a 'Director, had exercised his skill, experience and general knowledge, to be expected of a person, in carrying out the `duties of his functions', is to be determined for `Liability', in the considered opinion of this 'Tribunal'.

38. The Appellant has a duty', to establish to the satisfaction of this Tribunal', that a `person', is knowingly carrying on the business with the Corporate Debtor', with an `dishonest intention', to `defraud', the Creditors'. For a Fraudulent Trading'/ Wrongful Trading', necessary materials are to be pleaded by a Litigant'/ `Stakeholder, by furnishing `Requisite Facts', so as to come within the purview of the ingredients of Section 66 of the I & B Code, 2016. Suffice it, for this Tribunal', to pertinently point out that the ingredients of Section 66(1) and 66(2) of the I & B Code, 2016, operate in a different arena."



(xiv) Regulation 35A of the CIRP Regulations mandates a three-step process, whereby the RP must first form an opinion, thereafter determine, based on records and evidence, whether transactions fall under Sections 43, 45, 50 or 66 of the Code, and only thereafter approach the Adjudicating Authority for appropriate relief. The reliance is placed on the Judgement of the **Hon'ble NCLAT, New Delhi**, in the matter of **Shri Baiju Trading and Investment Private Limited vs. Nandkishor Vishnupant Deshpande (RP for Royal Refinery Private Limited), Company Appeal (AT) (Ins.) No. 699 of 2021 dated 29.03.2023**, wherein it has been reiterated that under Regulation 35A of the CIRP Regulations, the RP must first form an opinion, thereafter make a determination, and only then apply to the Adjudicating Authority for appropriate relief in respect of transactions under Sections 43, 45, 50 and 66 of the Code.

(xv) In the present case, the RP has failed to comply with the mandatory requirement of forming an independent opinion prior to filing the IA under

Section 66 of the Code. The IA has been filed mechanically and solely on the basis of the Transaction Audit Report, without any independent application of mind by the RP. There is no averment anywhere in this IA to demonstrate that the RP had formed an opinion regarding the existence of any fraudulent transactions. Such application of mind is a *sine qua non* for invoking Section 66 of the Code.


(xvi) The grounds raised in the IA are feeble and fictitious. The Applicant has failed to establish that the affairs of the Corporate Debtor were conducted with any fraudulent intent to defraud its creditors. The reliefs sought are totally vague, incomprehensible, unsubstantiated, and founded purely on conjectures and surmises, without specific pleadings or material particulars.



(xvii) The Transaction Audit Report, on which the Applicant heavily relies, is itself defective and inconclusive and contains several disclaimers. The Auditor has expressly stated that the opinions contained therein are not final and may not be correct. The Report itself shows that there are no preferential, undervalued, or extortionate credit transactions. Further, even with respect to fraudulent transactions, the Report is defective and inconclusive. In view thereof, the contention that the Corporate Debtor and its personnel are liable for action under Sections 66 and 67 of the Code is wholly false, baseless, and devoid of merit, as no fraudulent intent has been established.

18. During the next hearing dated 28.01.2025 and 12.03.2025, the Counsel for the R-1, R-2 and R-5 appeared and at the request of Counsels for the Applicant and R-1, R-2 & R-5, the matter was adjourned.

19. During the hearing dated 04.06.2025, the Liquidator submitted that the main issue in the instant IA is that the Respondents opened another bank account with SBI, Chimur to divert the money, which is not permitted under the loan agreement. While the R-1, R-2 & R-5 stated that the said bank account is reflected in the audited balance sheet of the Corporate Debtor and no funds have been diverted from the above bank account. in view of the above, the Liquidator was directed to approach the concerned bank, obtain the bank statement of the said account from the date of its opening till date & examine the same and the suspended Directors were directed to file the following documents with a copy of the same to be served on the Applicant:

- 
- (i) Bank statement of the SBI, Chimur account from the date of its opening till the date of commencement of the CIRP of the Corporate Debtor;
 - (ii) Income Tax Returns for the Assessment Years 2015-16 and 2016-17, along with the Audited Balance Sheets enclosed therewith.

20. Pursuant to this Adjudicating Authority Order dated 04.06.2025, the R-1, R-2 and R-5 vide Diary No.1244 dated 30.06.2025, filed the Compliance Memo enclosing therewith the Income Tax Returns of the Corporate Debtor for the Assessment Years 2015-16 and 2016-17 and inter alia stating that the Corporate Debtor's operations ceased long ago and the factory/ plant premises, along with all books of accounts and statutory records, are currently under the control and custody of the Liquidator. As such, the suspended management were unable to access or retrieve certain records. Further, the Respondents vide email dated 20.06.2025 requested the SBI, Chimur to provide the bank statements of the Corporate Debtor from the date of opening of the said account, however, the bank expressed its inability to provide the said statements directly to the Respondents, citing that the Corporate Debtor is under the control of the Liquidator and that such requests must be routed through the Liquidator.

21. Pursuant to this Adjudicating Authority Order dated 04.06.2025, the Liquidator vide Diary No.1578 dated 04.08.2025, filed the Compliance Memo stating that in response to his email dated 29.07.2025, he has received the bank statements from the SBI Chimur (copy annexed as Annexure-A (Colly) of the Compliance Memo.

22. During the hearing dated 06.08.2025, the Liquidator sought time to verify the entries in the bank statement submitted by him to ascertain, whether there is diversion of funds and the Respondents sought time to file a reply to the Compliance Memo dated 04.08.2025 filed by the Liquidator.

23. Subsequently, the R-1, R-2 & R-5, vide Diary No.1870 dated 16.09.2025, filed their reply in response to the Compliance Memo dated 04.08.2025 filed by the Liquidator, the contents of which are summarised as under:

- (i) Any attempt to introduce new facts, grounds, or reliefs by way of subsequent memos, without seeking a formal amendment of pleadings, is impermissible in law. A case must stand or fall on the basis of its original pleadings and cannot be improved, altered, or supplemented through subsequent filings, as such a course would amount to an indirect and unlawful amendment. By filing the above Memo, the Applicant is attempting to set up an entirely new and inconsistent case from what was originally pleaded in the IA, which is legally untenable and liable to be rejected on this ground alone.
- (ii) The Applicant's original case is based on the allegation that under the TRA Agreement, the sale proceeds received from the MSEDCL were required to be credited into the designated TRA account with the Andhra Bank, whereas the Corporate Debtor allegedly diverted such proceeds to its

account with SBI, Chimur, aggregating to Rs.57,21,54,822/-. As per the terms of the Agreement, 40% of the said receipts, i.e., Rs.22,88,61,929/-, ought to have been utilized towards repayment of IREDA's loan. The said diversion of funds constitutes a fraudulent transaction under Section 66 of the Code.

- (iii) The Applicant has deliberately omitted the material and crucial fact that a substantial sum of Rs.41,65,47,866/- from the SBI Chimur account was subsequently transferred to the TRA. This omission renders the allegations of diversion and misappropriation untenable. Once the funds were transferred to the TRA in accordance with the agreed mechanism, no adverse inference can be drawn. The suppression of this material fact amounts to misrepresentation before this Adjudicating Authority, and on this ground alone, the application deserves to be rejected. The amounts transferred from SBI Chimur account to the TRA are given below:



Date	Amount (Rs.)
05.09.2015	2,25,78,409.00
30.10.2015	1,60,79,473.00
19.11.2015	2,23,00,051.00
13.01.2016	2,62,41,788.00
16.02.2016	3,50,48,353.00
22.04.2016	2,92,91,042.00
27.04.2016	3,19,03,320.00
19.05.2016	3,76,80,739.00
24.06.2016	3,48,72,790.00
21.07.2016	2,63,25,420.00
23.09.2016	3,58,61,804.00
21.11.2016	2,29,52,271.00
27.01.2017	2,32,01,586.00
16.03.2017	3,36,10,820.00
29.05.2017	1,86,00,000.00
Total	41,65,47,866.00

(iv) The bank statement annexed to the above Memo clearly shows that the SBI Chimur account of the Corporate Debtor was closed on 10.07.2017. However, the Applicant has erroneously shown, at page 29 of the IA, that an amount of Rs.1,17,57,382/- was credited to the said account after its closure, which is factually impossible. This glaring discrepancy reflects a lack of due diligence and care in the preparation of the IA and renders the allegations unreliable and misleading, thereby undermining the credibility of the Applicant's case.

(v) Out of the alleged amount of Rs.57,21,54,822/-, a substantial sum of Rs.42,83,05,248/- has already been credited to the TRA. This clearly establishes that the Corporate Debtor substantially complied with the agreed fund flow mechanism and that there was no misappropriation or diversion of funds as alleged. Without admitting the Applicant's contentions, the Respondents place the below facts for the consideration:

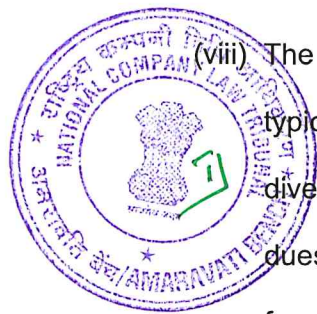
Particulars	Amount (Rs.)	Remarks
Total amount alleged by the Applicant to have been received in SBI Chimur account	57,21,54,822	As per Applicant's statement
Amount already credited to the TRA	42,83,05,248	Duly transferred in compliance with Agreement.
Balance amount (57,21,54,822 – 42,83,05,248)	14,38,49,574	Remaining funds after credit to the TRA
40% of the balance amount (14,38,49,574 × 40%)	5,75,39,830 (approx.)	Amount, if any, to be credited towards IREDA loan account
Actual payment made by the Corporate Debtor to IREDA	3,78,74,306	Already discharged by Corporate Debtor
Differential, if any	1,96,65,524 (approx.)	Not material compared to exaggerated claim of Applicant.

(vi) The balance amount of Rs.14,38,49,574/- was duly accounted for and utilized towards legitimate business purposes of the Corporate Debtor, including payments to vendors, repayment of loans and working capital



facilities, and settlement of raw material dues, as reflected in the bank statements and books of accounts, leaving no scope for any allegations.

(vii) The contention of the Applicant that 40% of the revenue was required to be applied exclusively towards repayment of IREDA loan is wholly misconceived. The agreed mechanism does not mandate exclusive appropriation of 40% of revenue towards IREDA alone. The Corporate Debtor was entitled, in the ordinary course of business, to utilize revenues to meet multiple financial obligations.



(viii) The power generation industry operates on extremely thin margins, typically ranging between 1% to 3%. In such circumstances, compulsory diversion of 40% of gross revenue solely towards repayment of IREDA dues would render the Corporate Debtor commercially unviable. Apart from the IREDA loan, the Corporate Debtor was required to service loans availed from Andhra Bank, as well as to make payments to various stakeholders.

(ix) The Applicant's allegation rests on the incorrect premise that funds were diverted exclusively away from IREDA. Neither the Applicant nor IREDA has alleged or established that the funds were siphoned or misappropriated. No documentary evidence has been produced to substantiate any allegation of diversion. On contrary, the conduct of the IREDA itself negates such allegations. Notably, the IREDA after due diligence, sanctioned further financial assistance to the Corporate Debtor on 31.03.2017 (copy of sanction letter annexed with the Memo). Had there been any fraudulent activity or misuse of funds, the IREDA would not have

sanctioned additional facilities. This clearly establishes that the allegation of fraudulent diversion is speculative, baseless, and contrary to the record.

- (x) A mere alleged breach of contractual terms does not, by itself, amount to a fraudulent transaction under Section 66 of Code. Non-compliance with certain contractual stipulations, procedural deviations, or delays in payments cannot ipso facto be equated with fraud. Fraud under Section 66 of the Code requires clear proof of dishonest intent or mens rea, which the Applicant has failed to plead or establish. Even assuming any technical or administrative deviation, the same cannot be elevated to the level of fraudulent trading.



- (xi) The Applicant has ignored the substantial financial support extended by the Directors and their relatives, who infused significant funds into the Corporate Debtor in the form of equity, loans, and other financial assistance. These infusions were made to sustain operations, meet liabilities, and keep the business running, and demonstrate bona fide conduct rather than fraudulent intent.
- (xii) A substantial portion of the revenue was credited to the TRA, significant payments were made to the IREDA, and the remaining funds were utilized for legitimate business purposes. The allegation that 40% of revenue must be exclusively applied to the IREDA is legally and commercially untenable. There is no evidence of misappropriation or fraud, and the IA, therefore, deserves to be dismissed.

24. During the hearing dated 17.09.2025, the Respondents contended that the IA deserves to be dismissed in *limine* on the ground of limitation. At this stage, the

Applicant sought permission to file an IA for condonation of delay. However, considering that the IA was filed in the year 2022 and that such request was being made only at this belated stage, after objections were raised by the Respondents, the request of the Applicant to file an application for condonation of delay cannot be entertained and accordingly the said request was rejected. Further, the Respondents sought time to clarify the position regarding the amounts transferred from the SBI Chimuru account to the TRA with Andhra Bank. The Applicant also sought three weeks' time to verify the transfer of Rs.41,65,47,866/-, based on the entries in the TRA and to submit a clear statement in this regard and in the event any of the amounts mentioned are found not to have been received in the TRA, the Applicant shall be at liberty to file the relevant TRA statement of the specific date(s), evidencing non-receipt of such amounts, within three weeks. The Applicant also sought time to file a memo with respect to the total 95 entries in the SBI Chimur account in a detailed tabular form, wherein it is alleged that amounts have been transferred for purposes other than those of the Corporate Debtor. The suspended Directors, in turn, were directed to file detailed submissions explaining the said 95 entries relating to withdrawals from the TRA, which are alleged to be not for the purposes of the Corporate Debtor, well before the next date of hearing.

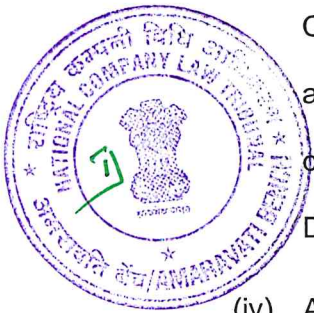
25. Pursuant to the order dated 17.09.2025, the Applicant vide Diary No.1930 dated 24.09.2025, filed Compliance Memo dated 23.09.2025 annexing therewith as Annexure A-1, the table of the fraudulent diversion of funds received from the MSEDCL into the SBI Chimur account of the Corporate Debtor instead of the designated Andhra Bank TRA,. Further, the Applicant vide Diary No.1995 dated 07.10.2025, also filed Compliance Memo annexing therewith as Annexure A-2), the TRA Statement of the Corporate Debtor with the Andhra Bank (now Union Bank of

India), Srikakulam Branch that categorically exposits how the suspended Management of the Corporate Debtor has diverted monies that were meant to be used to service the loan availed from the IREDA. It is stated in above Memo that the money so allegedly transferred from the SBI Chimur account of the Corporate Debtor into the TRA, has been used by Andhra Bank to service its own debt towards the Corporate Debtor, which can very well be corroborated by the fact that Andhra Bank consequently issued a 'No Dues Certificate' based on satisfaction of its financial obligations, and not for the satisfaction of debt due and payable to the IREDA, which is a clear breach of the terms of Clause 3.02(g) of the TRA Agreement dated 07.09.2006. It is submitted that the IREDA has not received the said sum, which ipso facto is in defiance of the TRA Agreement, and this factum alone in conjunction with the fact that the TRA Agreement was categorically executed to service the IREDA's loan renders the said transactions as fraudulent in limine (copy of tabular representation of diversion of monies from TRA account is annexed as Annexure A-3 of the Memo).

26. The R-1, R-2 and R-5, vide Diary No.2176 dated 29.10.2025, filed their reply to the Memos dated 23.09.2025 and 06.10.2025 filed by the Applicant stating that:

- (i) By way of Memo dated 23.09.2025, the Applicant has filed a table purportedly showing alleged diversion of funds of Rs. 25,67,66,912/- from the Corporate Debtor to R-8 and R-9, which is absolutely false, baseless, and devoid of any supporting evidence. The said table appears to have been prepared on mere assumptions and presumptions without any verification of the books of accounts or bank statements of the Corporate Debtor.

- (ii) It is a well-settled principle of law that mere preparation or filing of a tabular statement, without any cogent documentary evidence or material proof, does not bring the case within the purview of Section 66 of the Code. The Applicant has not produced a single piece of admissible evidence to establish any element of fraud or wrongful trading, and therefore, the allegations made are wholly untenable and unsustainable in law.
- (iii) The R-8 and R-9 have been long-standing business associates of the Corporate Debtor, functioning both as regular raw material suppliers and as unsecured financial creditors. Over the years, they have maintained a continuous and bona fide commercial relationship with the Corporate Debtor.
- (iv) At various critical stages of the Corporate Debtor's operations, when the Corporate Debtor faced liquidity constraints and required urgent working capital infusion, the R-8 and R-9 had extended substantial financial assistance to ensure uninterrupted operation of the power plant and smooth conduct of business activities. The transactions between the Corporate Debtor and the R-8 and R-9 were therefore, purely in the ordinary course of business, duly recorded in the books of accounts, and supported by valid documentation. Hence, any allegation that funds were siphoned off or diverted to the R-8 and R-9 is wholly misconceived, devoid of merit, and contrary to the true nature of the business relationship between the parties.
- (v) The R-8 had made financial contributions of Rs.10,24,95,096/- to the Corporate Debtor during the financial years 2015–2016, directly into the Corporate Debtor's SBI, Chimur account as shown below:



Date	Amount	Received To Corporate Debtor A/c No - 30349806862.
15.05.15	52,55,767.00	SBI - Chimur
10.06.15	82,00,000.00	SBI - Chimur
11.06.15	97,50,000.00	SBI - Chimur
15.07.15	23,00,000.00	SBI - Chimur
30.07.15	1,70,89,329.00	SBI - Chimur
14.08.15	1,12,00,000.00	SBI - Chimur
20.08.15	21,00,000.00	SBI - Chimur
21.08.15	40,00,000.00	SBI - Chimur
05.09.15	2,27,50,000.00	SBI - Chimur
07.09.15	47,00,000.00	SBI - Chimur
13.01.16	96,00,000.00	SBI - Chimur
13.01.16	33,00,000.00	SBI - Chimur
14.01.16	22,50,000.00	SBI - Chimur
Total	10,24,95,096.00	



- (vi) The Corporate Debtor, in the ordinary course of business, made repayments and reimbursements of Rs.749,16,112/- to the R-8 from time to time, as shown in table below, which represent legitimate discharge of financial obligations arising out of funds earlier advanced by the R-8, and other operational expenses incurred on behalf of the Corporate Debtor:

Date	Amount
26.08.15	1,47,50,000.00
03.09.15	2,23,00,000.00
14.10.15	15,00,056.00
15.10.15	15,00,056.00
18.04.17	2,31,00,000.00
24.05.17	1,17,66,000.00
Total	7,49,16,112.00

(vii) Even after adjusting the repayments made to the R-8, the Corporate Debtor continued to owe substantial amounts to him, which clearly establishes that the R-8 was a genuine financial creditor, who had extended financial assistance to the Corporate Debtor in good faith, rather than being a recipient of any siphoned or misappropriated funds. The financial trail unmistakably demonstrates that the inflows from the R-8 far exceeded the outflows, thereby negating any allegation of diversion of funds or fraudulent transactions as contended by the Applicant.



(viii) The R-9 had made substantial payments to the Corporate Debtor from time to time to support its operational requirements and ensure uninterrupted functioning of the power plant, which were received by the Corporate Debtor through proper banking channels and were duly accounted for in its books of accounts. Subsequently, certain repayments were made by the Corporate Debtor to the R-9 towards settlement of the amounts received. It is evident from the financial records that even after considering the inflow and outflow of such payments, the Corporate Debtor continued to remain indebted to the R-9, which clearly establishes that the R-9 stands in the position of a bona fide creditor of the Corporate Debtor, and not as a beneficiary of any siphoned or diverted funds. All such transactions were

conducted in the ordinary course of business and are fully supported by documentary evidence.

Payment made to R9 from Corporate Debtor SBI Chimur Account		Payment made from R9 to Corporate Debtor.	
Date	Amount	Date	Amount
		09.09.15	25,00,000.00
		13.10.15	22,00,000.00
		17.10.15	45,00,000.00
19.11.15	2,00,000.00	26.11.15	5,50,000.00
19.12.15	43,00,000.00	30.12.15	10,00,000.00
		05.01.16	75,000.00
		07.01.16	50,000.00
		18.01.16	65,000.00
		18.01.16	10,00,000.00
19.12.15	32,00,000.00	20.01.15	1,30,000.00
		22.01.15	1,10,000.00
		25.01.15	15,00,000.00
		27.01.15	85,000.00
		28.01.15	2,20,000.00
		26.02.16	11,00,000.00
23.03.16	1,25,00,000.00	23.03.16	9,00,000.00
		24.03.16	5,00,000.00
		28.03.16	1,00,000.00
		29.03.16	3,00,000.00
		30.03.16	1,00,000.00
		30.03.16	28,85,000.00
		31.03.16	24,20,000.00
		31.03.16	2,00,000.00
		06.04.16	6,00,000.00
		07.04.16	2,50,000.00
		11.04.16	10,00,000.00
		11.04.16	1,00,000.00
		16.04.16	1,00,000.00
		18.04.16	15,00,000.00
22.04.16	2,10,000.00	27.04.16	3,19,05,320.00
22.04.16	31,00,000.00		
25.04.16	2,64,69,800.00		
18.05.16	3,76,81,000.00	19.05.16	3,76,81,000.00
21.06.16	97,90,000.00	23.06.16	2,00,000.00
		23.06.16	71,00,000.00
20.07.16	2,67,00,000.00	21.07.16	2,63,00,000.00
23.08.16	1,38,00,000.00	26.08.16	1,61,50,000.00
24.10.16	5,00,000.00	25.10.16	9,00,000.00
24.10.16	1,18,00,000.00	25.10.16	9,00,000.00
		29.10.16	14,45,000.00
		04.11.16	9,00,000.00
		24.11.16	15,56,000.00
		24.11.16	10,00,000.00
24.11.16	25,00,000.00	25.11.16	5,00,000.00
		25.11.16	5,50,000.00



		08.12.16	13,50,000.00
20.12.16	5,00,000.00	21.12.16	3,00,000.00
		21.12.16	3,00,000.00
27.12.16	55,50,000.00	31.12.16	30,00,000.00
		09.01.17	3,00,000.00
		09.01.17	10,00,000.00
		09.01.17	8,30,000.00
		10.01.17	5,20,000.00
24.01.17	2,30,00,000.00	27.01.17	2,32,50,000.00
18.02.17	50,000.00	20.02.17	1,50,000.00
Amounts Paid to R9	18,18,50,800.00	Transfers received from R9	18,41,27,320.00

Total in-flow from R9 to Corporate Debtor -
₹ 18,41,27,320/-

Total out-flow from Corporate Debtor to R9-
₹ 18,18,50,800/-

(ix) Even after adjusting all repayments, the Corporate Debtor continues to owe an outstanding sum to the R-9, which clearly shows that the R-9 is a creditor of the Corporate Debtor, having extended genuine financial assistance and business support, and not a recipient of any siphoned or diverted funds as wrongly alleged by the Applicant.

(x) The nature and flow of transactions conclusively establish that these were legitimate business dealings undertaken in the ordinary course of trade, duly reflected in the Corporate Debtor's books of accounts and supported by proper banking records. For the purpose of clarity and brevity, only the major transactions have been presented and if all minor and small-value transactions are also taken into account, the total inflows from the R-8 and R-9 to the Corporate Debtor would be even higher, thereby increasing the net payable amount from the Corporate Debtor to the said Respondents. This further reinforces the position that both the R-8 and R-9 are bona fide creditors of the Corporate Debtor, and not recipients of any siphoned or diverted funds, as alleged by the Applicant.

- (xi) The Applicant has deliberately and selectively presented the financial data in a distorted manner purposely omitting and suppressing the substantial payments made by the R-8 and R-9 to the Corporate Debtor, while conveniently highlighting only the outflows made by the Corporate Debtor to them. This selective disclosure and concealment of material facts clearly demonstrate the Applicant's mala fide intention to mislead this Adjudicating Authority. Such suppression of crucial inflow transactions fundamentally undermines the credibility of the Applicant's allegations. Therefore, the allegations of fund diversion, siphoning, or fraudulent trading as alleged under Section 66 of the Code are baseless, misconceived, and therefore needs to be rejected as being devoid of merit and contrary to the documentary evidence on record.

27. The R-1, R-2 and R-5, vide Diary No.2308 dated 14.11.2025, also filed Memo showing the details of receipts and payments in respect of the R-8, as below:

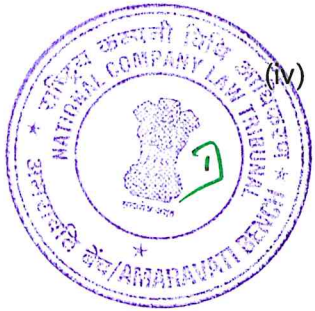
R8 - A P Ravi Sankar - A/c No - 30496632317					
Payment made to R8 from Corporate Debtor SBI Chimur Account.			Payment made from R8 to Corporate Debtor.		
Date	Amount	Page No	Date	Amount	Page No
26.08.15	1,47,50,000.00	56	15.05.15	52,55,767.00	36
03.09.15	2,23,00,000.00	59	10.06.15	82,00,000.00	40
14.10.15	15,00,056.00	71	11.06.15	97,50,000.00	41
15.10.15	15,00,056.00	72	15.07.15	23,00,000.00	44
18.04.17	2,31,00,000.00	223	30.07.15	1,70,89,329.00	48
24.05.17	1,17,66,000.00	231	14.08.15	1,12,00,000.00	52
			20.08.15	21,00,000.00	54
			21.08.15	40,00,000.00	54
			05.09.15	2,27,50,000.00	59
			07.09.15	47,00,000.00	60
			13.01.16	96,00,000.00	103
			13.01.16	33,00,000.00	103
			14.01.16	22,50,000.00	104
Total	7,49,16,112.00		Total	10,24,95,096.00	

28. During the hearing dated 18.11.2025, the matter was heard at length, which is summarised below:

- (i) It was submitted by the Applicant that the suspended management of the Corporate Debtor wrote a letter dated 09.06.2015 to the Superintending Engineer, MSEDCL, O&M Circle, Chandrapur requesting to release the payment of monthly energy bills through RTGS in the current account with SBI Chimur of the Corporate Debtor. Subsequent to that, the Andhra Bank vide its letter dated 27.06.2017 informed the Superintending Engineer, MSEDCL, that as per the TRA Agreement and Power of Attorney executed by the Corporate Debtor in favour of the Andhra Bank, the monthly bill amount is required to be credited to the TRA and crediting directly into the SBI Chimur account is the violation of the TRA Agreement. He further submitted that on the basis of MSEDCL reply at Page 264 of the Memo dated 02.08.2025, the net amount of the monthly bills paid by the MSEDCL into the SBI Chimur account amounts to Rs.57,21,54,822/-.
- (ii) The Applicant further submitted that Suspended Management of the Corporate Debtor siphoned off funds into the accounts of the R-8 and R-9 amounting to Rs.25,67,66,912. He further submitted that in addition to the above, Rs.3,27,92,216/- was also credited into the accounts of the R-8 and R-9 from the Corporate Debtor's SBI Chimur Account through various transactions for the period 26.08.2015 to June, 2017.
- (iii) The Counsel for the Suspended Directors submitted that the Corporate Debtor in the ordinary course of business made certain payments and reimbursements amounting to Rs.7,49,16,112/- to the R-8 for discharge of financial obligation arising out of funds advanced by the R-8 and other



operational expense incurred on behalf of the Corporate Debtor. He also submitted that the R-9 made substantial payments to the Corporate Debtor to support its operational requirements and to ensure uninterrupted functioning of the power plant and Rs.18,18,50,800/- was paid to the R-9 towards settlement of amount received from time to time from the R-9. He further submitted that at no point of time, the amounts transferred from the Corporate Debtor's SBI Bank account to R-8 and R-9 were in excess of the funds transferred by the R-8 and R-9 to the Corporate Debtor, and therefore, the question of any fraudulent transaction under Section 66 of the Code does not arise.



(iv) Per contra, the Applicant submitted that by virtue of TRA Agreement dated 07.09.2006, which was duly executed by the Financial Creditor, the Corporate Debtor and Andhra Bank, the sale proceeds receivable from the MSEDCL were required to be credited into the designated TRA of the Corporate Debtor with Andhra Bank. Out of these inflows, 60% was to be utilized for the Corporate Debtor's operational requirements and the remaining 40% was to be earmarked for servicing the debt of the IREDA. However, the erstwhile management of the Corporate Debtor opened a new bank account with SBI Chimur, in clear violation of the TRA Agreement and the sale proceeds from the MSEDCL were deposited into the SBI Account instead of the designated TRA Account with Andhra Bank, and these monies were transferred to the R-8 and R-9, instead of being applied for servicing the loan of the IREDA. By referring to the letter dated 09.06.2015 (page 191 of IA) written by the Corporate Debtor to the MSEDCL, he further submitted that the Corporate Debtor had authorised

the MSEDCL to release the payments to the Current Account of the Corporate Debtor, and this clearly evidences the mala fide intent of the Corporate Debtor in violation of the TRA Agreement. He, therefore, stated that such diversion of funds was carried out with the fraudulent intent and squarely attracts the provisions of Section 66 of the IBC. He further submitted that the existence of the SBI Account was not disclosed by the erstwhile management to the RP, and that the Respondents have not filed any documentary evidence as regards their admission of relationship of the R-8 and R-9.



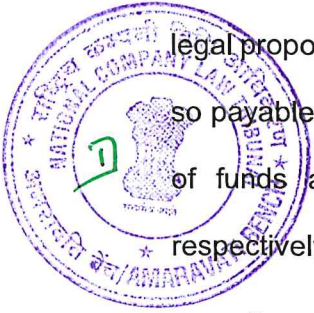
The Counsel for the Suspended Board submitted that even as per the TRA Agreement dated 07.09.2006, after payment of the due amount to the IREDA as on the date of receipt in the TRA Account, the Corporate Debtor has right to utilize the surplus amount. In this regard, he referred to Clause 3.02(g) of the TRA Agreement dated 07.09.2006 (Page 97 of the IA).

- (vi) At this juncture, the Bench has posed a query to both the parties that as per the terms of the Loan Agreement between the IREDA and Corporate Debtor and Clause 3.02(g) of the TRA Agreement, what amount would have been devolved on the IREDA, had the money paid by the MSEDCL been credited into the TRA. Both the Counsels sought two weeks' time to work out the amount.
- (vii) The Applicant sought two weeks' time to place on record the legal propositions along with the relevant judgments of the superior Courts to demonstrate that, where a TRA/Escrow Account is mandated under an Agreement, the failure of the Corporate Debtor to route the funds through such TRA/ Escrow Account and the opening of an alternate Bank Account

for the same would amount to a fraudulent transaction within the purview of Section 66 of the IBC.

- (viii) Similarly, the suspended Board also sought time to file the legal proposition along with relevant judgments of the superior Courts to establish that, in cases where a TRA/Escrow Account has been mandated & opened, but funds were not deposited into the said Account, such conduct would not amount to fraudulent transaction under the provisions of the IBC.

29. Subsequently, the Applicant vide Diary No.2415 dated 02.12.2025, annexed the legal propositions under Section 66 of the Code as well as computation of the monies so payable to the IREDA between June 2015 and May 2017 (the period of diversion of funds as exposted in IA 401/2022) as Annexure A-2 and Annexure A-3 respectively.



- (i) At Annexure A-2, the Applicant has relied on the following decisions:
- (a) *Mr. Anuj Bajpai, RP of Tollways (Ujjain) Pvt. Ltd. v. Surendra Lodha & Anr. (IA/ 2874/2021 in CP (IB) 4106/MB/2018);*
 - (b) *Shri Baiju Trading and Investment Pvt. Ltd. v. Mr. Arihant Nenawati & Ors. (CA (CA) (Ins.) No.699 of 2021;*
 - (c) *Shirley Matthew, Liquidator of M/s. Veracious Builders and Developers Pvt. Ltd. v. Kaluvoy Sreenivasulu Reddy & Anr. (2023) SCC OnLine NCLT 49754).*
- (ii) At Annexure A-3, the working computation of monies payable to the IREDA between June 2015 and May 2017 has been given as under:

WORKING COMPUTATION OF MONIES PAYABLE TO IREDA BETWEEN JUNE 2015 AND MAY 2017

I. Upon taking cognizance of the fact that vide letter dated 09.06.2015 (Page No. 191 of IA 401/2022) the Suspended Management had asked MSEDCL to credit sale proceeds directly into the SBI Chimur account in violation of the TRA Agreement dated 07.09.2006, Andhra Bank sent a letter to MSEDCL dated 28.06.2017 (Page No. 194 of IA 401/2022) to supply all the bill realization details from June 2015 onwards.

On the basis of MSEDCL's reply (Page No. 264 of the Memo filed by the Applicant dated 02.08.2025) the Applicant presents the following table showcasing the money diverted into the SBI Chimur A/c. of the Corporate Debtor:

<u>Sr. No.</u>	<u>Date</u>	<u>Amount</u>	<u>Page No. of Memo filed by the Applicant dated 02.08.2025</u>
1.	26.08.2015	1,60,40,771/-	56
2.	03.09.2015	2,23,00,051/-	59
3.	14.10.2015	28,15,034/-	71
4.	29.10.2015	2,62,41,788/-	79
5.	18.11.2015	3,50,48,353/-	87
6.	19.12.2015	2,92,91,042/-	95
7.	13.01.2016	3,23,93,928/-	103
8.	16.02.2016	3,56,66,362/-	110
9.	23.03.2016	3,53,72,790/-	115
10.	22.04.2016	2,63,50,420/- + 65,54,213/-	123
11.	18.05.2016	3,76,80,739/-	132
12.	20.06.2016	1,05,17,014/-	140
13.	20.07.2016	2,68,27,431/-	148
14.	22.08.2016	1,38,92,549/-	169
15.	22.09.2016	36,12,234/-	175
16.	22.09.2016	3,25,12,311/-	175
17.	24.10.2016	1,37,45,340/-	182
18.	21.11.2016	2,29,62,271/-	185
19.	17.12.2016	34,91,242/-	189
20.	27.12.2016	63,84,402/-	193
21.	24.01.2017	2,33,01,586/-	203
22.	17.02.2017	2,86,59,578/-	211
23.	16.03.2017	3,13,95,983/-	220
24.	18.04.2017	2,47,52,383/-	223
25.	24.05.2017	1,17,64,105/-	231
26.	In June 2017	1,17,57,382	308
TOTAL		57,21,54,822/-	263



II. As per Clause 3.02(g) [at Page No. 97 of IA 401/2022] of the TRA Agreement dated 07.09.2006, 40% of the amount received by the CD, per month, as per I was earmarked exclusively for servicing the debt of IREDA in the following manner:

- (i) Charges including interest on loan, liquidated damages and any other moneys/dues payable by the Borrower to the Lender;
- (ii) Principal amounts payable by the Borrower under the Loan Agreement;

Further, only if there was any surplus remaining after satisfying the above, then, it could be used by the Borrower for purposes other than as exposted hereinabove.

The following is a tabular representation of the monies that had to be earmarked for servicing of IREDA's debt as per the TRA Agreement but were diverted into SBI Chimur A/c. of the Corporate Debtor;



Sr. No.	Date	Monies received into SBI Chimur Amount as per 'I'	40% as per Clause 3.02(g) of TRA Agreement
1.	26.08.2015	1,60,40,771/-	64,16,308/-
2.	03.09.2015	2,23,00,051/-	89,20,020/-
3.	14.10.2015	28,15,034/-	11,26,014/-
4.	29.10.2015	2,62,41,788/-	1,04,96,715/-
5.	18.11.2015	3,50,48,353/-	1,40,19,341/-
6.	19.12.2015	2,92,91,042/-	1,17,16,417/-
7.	13.01.2016	3,23,93,928/-	1,29,57,571/-
8.	16.02.2016	3,56,66,362/-	1,42,66,545/-
9.	23.03.2016	3,53,72,790/-	1,41,49,116/-
10.	22.04.2016	2,63,50,420/- + 65,54,213/-	1,31,61,853/-
11.	18.05.2016	3,76,80,739/-	1,50,72,296/-
12.	20.06.2016	1,05,17,014/-	42,06,806/-
13.	20.07.2016	2,68,27,431/-	1,07,30,972/-
14.	22.08.2016	1,38,92,549/-	55,57,020/-
15.	22.09.2016	36,12,234/-	14,44,894/-
16.	22.09.2016	3,25,12,311/-	1,30,04,924/-
17.	24.10.2016	1,37,45,340/-	54,98,136/-
18.	21.11.2016	2,29,62,271/-	91,84,908/-
19.	17.12.2016	34,91,242/-	13,96,497/-
20.	27.12.2016	63,84,402/-	25,53,761/-
21.	24.01.2017	2,33,01,586/-	93,20,634/-
22.	17.02.2017	2,86,59,578/-	1,14,63,831/-
23.	16.03.2017	3,13,95,983/-	1,25,58,393/-
24.	18.04.2017	2,47,52,383/-	99,00,953/-
25.	24.05.2017	1,17,64,105/-	47,05,642/-
26.	In June 2017	1,17,57,382	47,02,953/-
TOTAL		57,21,54,822/-	22,88,61,929/-

III. Therefore, as per 'I' and 'II' a total sum of Rs. 22,88,61,929/- had to be earmarked by the Corporate Debtor for servicing the debt of IREDA as per Clause 3.02(g) of the TRA Agreement. The following is an extract of the tabular representation of the actual position of dues payable by the Corporate Debtor to IREDA (between June 2015 to May 2017) out of the sum (40%) as exposted hereinabove:

30. Subsequently, the R-1, R-2 and R-5, vide Diary No.47 dated 08.01.2026, also filed Memo stating as under:

(i) The contention of the Applicant is premised on the assumption that amounts received from the MSEDCL during the period 25.08.2015 to 24.05.2017 were not routed through the TRA Account. Without prejudice to the factual position, it is submitted that the said amounts were in fact credited into the TRA Account maintained with the Andhra Bank and also into the account maintained with SBI Chirmur, pursuant to the operational arrangements existing at the relevant time.



(ii) Clause 3.02(g) of the TRA Agreement dated 07.09.2006 clearly provides that after servicing the debt obligations of the IREDA in accordance with the repayment schedule stipulated in the sanction letters, including additional two top-up installments, the residual or surplus amount available may be utilised by the Corporate Debtor for its legitimate business purposes.

(iii) As per the sanction letters issued by the IREDA, the total amount contractually and legally payable by the Corporate Debtor i.e., from 25.08.2015 to 24.05.2017 towards the loan liability stood at Rs.2,94,87,975/-. It is a matter of record that during the relevant period, i.e., from 25.08.2015 to 24.05.2017, the Corporate Debtor has in fact, paid an aggregate sum of Rs.3,95,45,484/- to the IREDA, which is substantially in excess of the amount payable under the sanction letters.

(iv) In view of the aforesaid admitted position, the entire amount required to be devolved upon the IREDA, even assuming that all receipts from the MSEDCL had been credited into the TRA, has already been duly paid.

Therefore, no further amount remained payable or due to the IREDA under Clause 3.02(g) of the TRA Agreement.

- (v) Once the secured lender's dues, as crystallised under the sanction letters, stood fully satisfied, any excess or surplus amount available thereafter, legally belonged to the Corporate Debtor and was fully permissible to be utilised for business operations, working capital requirements, and other commercial purposes.
- (vi) The Corporate Debtor has not only complied with, but has in fact overperformed its contractual obligations under the TRA Agreement by paying amounts exceeding its sanctioned liability to the IREDA. Consequently, no breach, deviation, or non-compliance of Clause 3.02(g) can be attributed to the Corporate Debtor.
- (vii) In compliance with the directions of this Adjudicating Authority and in terms of Clause 3.02(g) of the TRA Agreement dated 07.09.2006, the total amount payable to the IREDA from 25.08.2015 to 24.05.2017 as per the latest sanction letters stood crystallised at Rs.2,94,87,975/-. The said amount represents the complete and final contractual liability of the Corporate Debtor towards the IREDA, inclusive of all scheduled instalments and two top-up instalments. The instalment-wise payable amounts are detailed herein below:



Month	Payable Instalment
Sep-15	28,39,106
Oct-15	28,93,476
Nov-15	28,19,561
Dec-15	28,73,271
Jan-16	28,63,173
Feb-16	27,27,412
Mar-16	28,42,976
Apr-16	50,000
May-16	1,21,000
Jun-16	1,21,000
Jul-16	1,21,000
Aug-16	1,21,000
Sep-16	1,21,000
Oct-16	9,31,000
Nov-16	9,31,000
Dec-16	9,31,000
Jan-17	9,31,000
Feb-17	9,31,000
Mar-17	9,31,000
Apr-17	8,47,000
May-17	8,47,000
Jun-17 (To Up Instalment No.1)	8,47,000
July-17 (To Up Instalment No.2)	8,47,000
Total	2,94,87,975

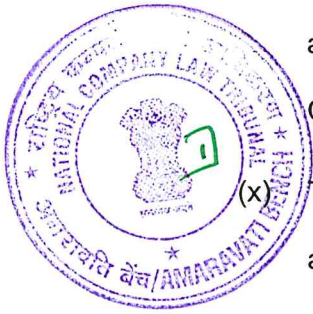


(viii) The date-wise details of payments actually made by the Corporate Debtor to the IREDA during the relevant period are tabulated herein below:

Date	Amount Paid to IREDA.
17.08.15	28,41,528.00
17.18.15	28,32,778.00
09.02.16	25,00,000.00
04.04.16	27,00,000.00
29.04.16	30,00,000.00
23.05.16	30,00,000.00
22.07.16	30,00,000.00
23.09.16	30,00,000.00
20.10.16	30,00,000.00
24.11.16	30,00,000.00
12.01.17	30,00,000.00
27.01.17	30,00,000.00
18.03.17	30,00,000.00
30.05.17	16,71,178.00
	3,95,45,484.00

(ix) The statement filed by the Applicant vide Memo dated 02.12.2025, is wholly misconceived, legally untenable, and contrary to the order dated 07.01.2026. This Adjudicating Authority had specifically directed the

Applicant to place on record a statement strictly in terms of Clause 3.02(g) of the TRA Agreement dated 07.09.2006, indicating what amount would have devolved upon the IREDA, had the monies received from the MSEDCL been credited into the TRA. However, the statement filed by the Applicant does not align either with the contractual framework of the TRA Agreement or with the scope and intent of the information sought by this Adjudicating Authority. The Applicant has failed to examine the repayment structure under the sanction letters, the cap on the IREDA's entitlement, and the express permissibility of utilisation of surplus funds by the Corporate Debtor under Clause 3.02(g) of the TRA Agreement.



(x) The Applicant has proceeded on an erroneous presumption that all amounts received from the MSEDCL must automatically devolve upon the IREDA, without appreciating that under Clause 3.02(g) of the TRA Agreement, the IREDA's entitlement is limited to the amounts payable as per the sanction letters, and not beyond.

(xi) It is therefore prayed to disregard the statement filed by the Applicant and place reliance on the Respondents' statement, which is supported by Sanction Letters, bank statements, and contractual provisions, and which truly reflects compliance with Clause 3.02(g) of the TRA Agreement.

ANALYSIS AND FINDINGS:

31. We have heard the submissions of the Liquidator, the Counsels for the Liquidator and R-1, R-2 & R-5 and also perused the records carefully.

32. Before proceeding to examine the matter, we consider it appropriate to go through the facts of the case based on the pleadings of the parties.

- (i) The IREDA vide sanction letter dated 16.01.2006 (page no.74 to 86 of the IA) had sanctioned a term loan of Rs.2223 Lakhs to the Corporate Debtor and as per the Clause 8(vi) of the terms and conditions enclosed at Annexure-I of the said sanction letter, the Corporate Debtor was required to open a TRA for servicing the IREDA repayment, interest, liquidated damages and other monies and deposit the sale proceeds of the power and other monies in respect of the project/ business. The relevant extracts of the aforesaid sanction letter are reproduced below:



F No 221/2353/GMG/2005/IREDA 771

Dated, 16th January, 2006

M/s Saradambika Power Plant Pvt Ltd.
#502, 5th floor, Lumbini Rockdale Emerald Building,
Near Eenadu Office, Somajiguda,
Hyderabad - 500 082.

Dear Sirs,

Sub: Sanction of Term Loan for setting up of 10 MW Biomass power project at Chimur (Mini) Industrial area, Chimur, Chandrapur Dist, Maharashtra (Project No 1743).

Please refer to your loan application and subsequent correspondence & discussions, your representative(s) had with us, regarding term loan for setting up a 10 MW Biomass power project at Chimur (Mini) Industrial area, Chimur, Chandrapur Dist, Maharashtra.

The application has been considered and **Indian Renewable Energy Development Agency Ltd (IREDA)** is agreeable to provide to your Organisation, as Borrower, Term Loan of Rs 2223 Lakhs (Rs Two Thousand Two Hundred Twenty Three Lakhs only).

2 The sanctioned loan is subject to following:

- i) Terms and conditions as detailed in **Annexure-I**
- ii) Formalities to be complied with for execution of loan documents as detailed in **Annexure-II**
- iii) Terms and Conditions governing release of first instalment of loan as detailed in **Annexure-III**

- iv) Terms and conditions contained in following :
- Standard form of Loan Agreement, as applicable (**Annexure-IV**)
 - Standard form of Deed of Hypothecation, as applicable (**Annexure-V**).
 - Standard form of Deed of Personal Guarantee (**Annexure-VI**).
 - Standard form of Deed of Corporate Guarantee (**Annexure-VII**).

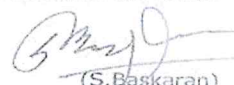
3 Please note that this communication should not in any way be construed as giving rise to any binding obligation on the part of IREDA, unless the borrower communicates to IREDA, within 30 days from the date of receipt of this letter that the terms and conditions set out herein are acceptable and unless the Loan Agreement and other documents relating to the above loan are executed by the borrower within the prescribed period, the loan sanction shall be considered withdrawn automatically without any further reference and obligation on the part of IREDA.

4 The execution of Loan Agreement and other documents is scheduled for 28.02.2006. In case you wish to sign the documents earlier, you are welcome to do so with prior intimation. This is, however, subject to submission of documents, as detailed in the letter.

5 All the annexures are deemed to be part of this letter.

Thanking you

Yours faithfully
FOR INDIAN RENEWABLE ENERGY
DEVELOPMENT AGENCY LIMITED


(S. Baskaran)
Assistant General Manager (TS)

Assistant General Manager (TS)

ANNEXURE-I

TERMS AND CONDITIONS

GENERAL CONDITIONS

(1) **Term Loan Amount:**

Rs 2223 Lakhs (Rupees Two Thousand Two Hundred Twenty Three Lakhs only).

(2) **Project Cost:**

Item	Amount (Rs in lakhs)
Land and Site development	35.00
Buildings and Civil Works	450.00
Plant & Machinery	3035.00
Misc fixed assets	50.00
Preliminary & Pre-operative Expenses	125.00
Interest during construction period	250.00
Engineering Consultancy	35.00
Margin Money for Working Capital	95.00
Provision for contingencies	160.00
Grand Total	4235.00

(3) **Means of Finance:**

Sl No	Source	Amount (Rs In Lakhs)
A.	Promoters' contribution	
	Fresh Equity	1271.00
	Total Promoters' contribution	1271.00
B	Subsidy/Grant, if any	0.00
C	Term Loan Proposed from IREDA towards Project	2223.00
D	From other FIs/Banks	741.00
	Total Project Cost:	4235.00

(4) In accordance with Article-II of annexed standard form of Loan Agreement :

4.1 Interest:

Clause 2.2 -- Present applicable interest rate is 10.50 % per annum. However, the rate at the time of first disbursement is applicable.

4.2 Additional interest:

Clause 2.3

4.3 Front - End Fee:

Clause 2.4 -- Front end fee will be payable @ 1 % of loan amount, which has already been paid.

4.4 Liquidated damages:

Clause 2.7 -- Present applicable rate is 2.75 % per annum.

4.5 Dates of signing of loan documents and withdrawal of Loan:

Clause 2.5

To sign Loan Agreement - on or before 15.07.2006
To draw first instalment of loan - on or before 15.01.2007
To draw final instalment of loan - on or before 15.01.2009

4.6 Grace Period and period of Repayment of the Loan:

The grace period is 6 months from the date of commissioning of the project but not exceeding 2 years from the date of first disbursement. The loan will be repaid in 40 quarterly installments. The repayment of installments of principal and payment of installments of interest will, however become due and payable on 31st March, 30th June, 30th September and 31st December, each year. Kindly refer Clause 2.9.

5 Instalment of interest payable to IREDA on loan during construction period of the Project

Interest payable to IREDA during the construction period is included as a part of the project cost. IREDA reserves the right to withdraw the amount of interest on due dates from the loan sanctioned to the borrower during the construction period by making disbursement to the borrower.

6 No Lien Account:

The Borrower shall open a No lien Account with any Scheduled Commercial Bank (foregoing right of set off on the said account as per draft enclosed) on receipt of this Sanction Letter and thereafter all the monies including promoters contribution towards the project shall be routed through No Lien Account.

XXXXXXXXXXXX



- 8 The steps / formalities required to be complied with and / or documents required to be submitted for the above securities are as under:

XXXXXXXXXXXXX

(vi) **TRUST AND RETENTION ACCOUNT (TRA):-** The Borrower shall open **Trust and Retention Account** for servicing IREDA repayment, interest, liquidated damages and other monies and shall deposit the sale proceeds of power and other monies in respect of the project / business and shall create a reserve of amounts equivalent to repayment of one quarter of principal and interest amount.

(a) TRA will be executed by the Borrower in triplicate in IREDA's Standard Format (enclosed).

(b) Letter from purchaser of power viz third party (ies), SEB, State Utility as applicable confirming to deposit sale proceeds in the TRA Account.

(ii) In terms of the above sanction letter, a Loan Agreement dated 28.02.2006 was entered into between the Corporate Debtor and IREDA.

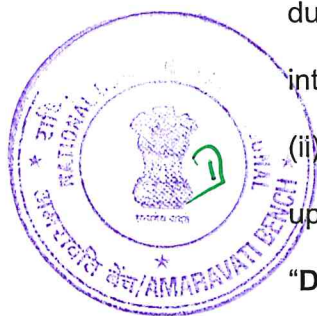
(iii) The Corporate Debtor entered into the Biomass Energy Purchase Agreement (hereinafter referred to as the "**BEPA**") with the MSEDCL on 25.09.2006 for sale of power generated by the plant (page no.113 to 184 of the IA).

(iv) The Andhra Bank, Srikakulam Branch vide its sanction letter dated 26.09.2007 (page no.185 to 187 of the IA), sanctioned the open cash credit limit of Rs.250 lakhs to finance working capital requirements of the Corporate Debtor.

(v) In terms of the sanction letter of the IREDA dated 16.01.2006, a TRA Agreement was entered into on 07.09.2006 amongst IREDA, the Corporate Debtor and Andhra Bank (page no.88 to 112 of the IA). As per the TRA Agreement, a Designated Account i.e. a Current Account or TRA is to be opened by the Corporate Debtor with the Andhra Bank and the IREDA shall



have the exclusive rights over the receivables together with all other monies lying in the TRA. The TRA would be operated in terms of the TRA Agreement and all the receivables was required to be deposited in the TRA. The receivables deposited in the TRA is to be appropriated in the manner as provided in Clause 3.02(g). As per the said clause, 60% of the monthly revenues are to be utilised towards raw material expenditure, operations and maintenance expenses, and charges payable to the Trust Bank. The balance 40% of the monthly revenues is to be appropriated towards lender dues in the following order of priority: (i) payment of charges including interest on loan, liquidated damages and other dues payable to the lender; (ii) repayment of principal amounts under the loan agreement; (iii) topping up of the Debt Service Reserve Money (hereinafter referred to as the "DSRM") equivalent to two instalments of principal and interest payable to the lender; and (iv) surplus, if any (other than DSRM), will be allowed to overflow to the borrower. Further, Clause 3.02(m) of the TRA Agreement expressly prohibits the Corporate Debtor from opening any other account or establish any other mode for the purpose of collection of receivables without the prior written consent of the IREDA. The relevant extracts of the TRA Agreement are reproduced below:



TRUST AND RETENTION ACCOUNT AGREEMENT

THIS AGREEMENT is made on this ¹⁵01st, day of September, 2006 amongst:

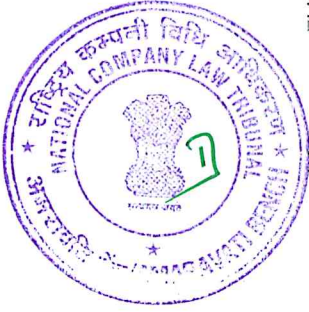
M/s Indian Renewable Energy Development Agency Ltd. (IREDA) a Public Company within the meaning of the Companies Act, 1956 and having its Registered Office at Core 4-A, East Court, 1st Floor, India Habitat Centre, Lodhi Road, New Delhi - 110 003, hereinafter referred to as "Lender" which expression shall, unless repugnant to or inconsistent with the context, mean and include its successors and assigns of the FIRST PART ;

AND \ /

M/s Saradambika Power Plant Private Ltd., a Company within the meaning of the Companies Act, 1956 and having its Registered Office at D.No: 6-3-570/1, F.No:502, Lumbini Rockdale, Emerald Block, Near Enadu Office, Somajiguda, Hyderabad-82 in the State of Andhra Pradesh, hereinafter called the "Borrower" which expression shall, unless repugnant to or inconsistent with the context, mean and include its successors of the **SECOND PART,**

AND

Andhra Bank Ltd (A Govt. of India undertaking), H.O.: Dr.Pattabhi Bhavan, 5-9-11, Saifabad, Hyderabad-4, a public Company incorporated under the Companies Act,1956 and a Banking Company within the meaning of the Banking Regulation Act, 1949, and having its Registered Office at Hyderabad hereinafter referred to as the "Trust Bank", which expression shall, unless repugnant to or inconsistent with the context, mean and include its successors and assigns of the **THIRD PART.**



WHEREAS

- a. By an Agreement dated 28th day of February, 2006 entered into between the Lender and the Borrower, as amended from time to time (hereinafter referred to as the "Loan Agreement"), the Lender has agreed to lend and advance to the Borrower and the Borrower has agreed to borrow from the Lender the sum of Rs. 2223.00 lakhs (hereinafter referred to as the "loan") on the terms and conditions contained in the Loan Agreement.
- b. The Borrower is required to repay the loan together with interest and other monies in respect of the said loan/s as revised from time to time. The aggregate amounts payable by the Borrower to the Lender on each due dates is as per the Schedule -II
- c. One of the terms of the Loan Agreement is that in order to secure the due discharge of its obligations under the Loan Agreement, the Borrower shall :
 - a) open an account in the name of " M/s. Saradambika Power Plant Private Ltd. a/c IREDA Limited " (hereinafter referred to as the "Designated Account") charged exclusively in favour of the Lender, with the Trust Bank, into which the disbursements made by the Lender to the Borrower pursuant to and as per the Loan Agreement shall be deposited and after the disbursal the Receivables shall be deposited: For Saradambika Power Plant Pvt.

XXXXXXXXXXXXXX

"**Designated Account**" shall mean the current account to be opened by the Borrower with the Trust Bank, Delhi or such other place as may be decided between the Lender and the Borrower in terms of this Agreement.

"**Debt Service Reserve Money**" shall mean the minimum amount equivalent to meet two debt service instalments, which would have to be maintained by the Borrower in the Designated Account.

XXXXXXXXXXXXXX

"Power Purchase Agreement" means the agreement entered into /to be entered into between Borrower and Offtaker/SEB's with regard to the purchase of power by Offtaker/SEB from Borrower on the terms and conditions incorporated/to be incorporated in the Power Purchase Agreement.

XXXXXXXXXXXXXXXXXX

"Receivables" means (a) the amounts due and payable by Offtaker/SEB's to the Borrower on the due dates under the terms of the Power Purchase Agreement entered/to be entered into between Offtaker/SEB's and the Borrower or the sums becoming due and receivable by the Borrower through supply of Power to the grid/other customers and would also include all other incomes viz. Sales Tax exemption benefits or any other income from the project set-up for producing power (b) in the event of the Borrower itself captively using the power generated either wholly or in part, the amounts equivalent to the market value of the power consumed captively becoming due and payable to the borrower by the purchasers to whom the goods produced/supplied by the borrower are sold and the borrower undertakes to obtain necessary consents and authorisations, including consent from its working capital bankers as may be necessary in this regard.

XXXXXXXXXXXXX

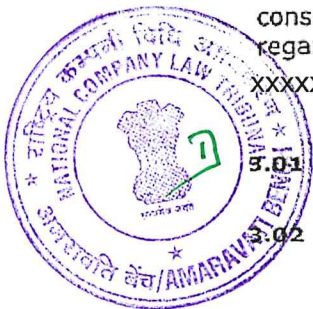
OPERATION OF THE ACCOUNT

5.01 All the disbursements as per the Loan Agreement shall be made through the Designated Account and the contributions made by the promoter would also be made through the Designated Account.

- 5.02
- a) The Lender shall have an exclusive right over the receivables, the Designated Account together with all other monies lying in the Designated Account.
 - b) The Designated Account shall be held by the Trust Bank to order of the Lender and shall be operated in terms of this Agreement.
 - c) The Borrower shall issue instructions to Offtaker/SEB's /purchasers of goods sold by the Borrower, by a bill (as per the format provided in Schedule - I), that shall be irrevocable and binding on Offtaker/SEB's/purchasers unless it receives further written instructions to the contrary from the Borrower along with a no objection certificate from the Lender, requiring Offtaker/SEB's to remit/deposit the Receivables as and when they are payable to the Borrower as follows:

The Receivables shall be deposited into the Designated Account and Borrower shall also ensure that all Receivables becoming due and supply of power to grid (after obtaining necessary approvals and clearances) shall be deposited in the Designated Account and for this purpose, Borrower shall issue necessary irrevocable instructions to the satisfaction of the Lender.

- d) The Borrower shall obtain a written confirmation from Offtaker/SEB's/purchasers other authorities in a form and manner satisfactory to the Lender to the effect as set forth in Clause 3.02 (c) above.
- e) The Borrower shall take all steps necessary and essential to ensure the deposit/remittance by Offtaker/SEB's/purchasers of the Receivables into the Designated Account as and when Receivables become due and payable by the Offtaker/SEB's under the Power Purchase Agreement as per (c) above.



- f) The Trust Bank agree that it shall, immediately after payments are made by Offtaker/SEB's to the Designated Account, send to the Lender, a confirmation in respect of such payments stating the aggregate amount lying in the Designated Account as on that date. The Trust Bank agree and confirm that all such sums received by it from Offtaker/SEB's shall be credited to the Designated Account.
- g) The Receivables deposited / credited into the Designated Account shall be appropriated for following purposes in the following order of priority:
- (i) Raw material expenditure, O & M expenditure and Charges payable to Trust Bank for services rendered as Trust Bank at 60% of the Revenues per month
 - (ii) Balance 40% Revenues per month shall be made available for meeting the payments /charges in the following order of priority:-
 - (iii) Charges including interest on loan, liquidated damages and any other moneys/dues payable by the Borrower to the Lender;
 - (iv) Principal amounts payable by the Borrower under the Loan Agreement;
 - (v) Topping up of the Debt Service Reserve Money equivalent to these instalments of principal and interest payable to the lender
 - (vi) Surplus, if any (other than Debt Service Reserve Money) will be allowed to overflow to the Borrower.

The available balances in the Designated Accounts shall be invested as per the Lender guidelines for such amounts.

On receipt of payments in the Designated account in accordance with the provisions of Clause (f) above, the trust bank shall appropriate the amounts credited to the Designated account in accordance with clause (g) above and shall intimate the Lender accordingly on due dates.

- h) However in the event of the amount collected by deposit of Receivables in the Designated Account falls short of the amount required in order to meet repayment obligations by the Borrower on immediately following Due Date in terms of the Loan Agreement, then the Trust Bank shall on the Due Date withdraw, such amount as may be required to meet the shortfall, from the Money lying as the Debt Service Reserve Money lying in the Designated Account and all the subsequent Receivables deposited in the Designated Account shall first be used by the Trust Bank for topping up the Debt Service Reserve Money to the extent withdrawn.
- i) Any money lying in the Designated Account may be invested, from time to time, by the Borrower, in fixed deposits with the Trust Bank provided the date of maturity of such fixed deposit is not more than the succeeding Due Date and proceeds of such fixed deposits shall be credited to the Designated Account.
- j) The Designated Account shall be held by the Trust Bank to the order of the Lender in terms of this Agreement. The Trust Bank confirms that they have received all approvals and authorisations and consents from the concerned authorities in relation to the operation and maintenance of the Designated Account. The Trust Bank agree that they shall send to the Lender on a monthly basis, commencing from the date of signing of the Agreement, written confirmation in respect of all deposits/remittances/payments made into the Designated Account/by the Borrower or Off-taker / SEB's during the immediately preceding month and stating the aggregate amount lying in the Designated Account as of the date of such written confirmation. The Trust Bank agree and confirm that all such sums received by it from the Off-taker / SEB's and/or Borrower shall be credited to the Designated Account.
- k) The Trust Bank confirms that upon the receipt of a notice from the Lender intimating it of an occurrence of an Event of Default, the Trust Bank shall cease to transfer/allow withdrawals of any amounts from the Designated Account and shall operate the Designated Account as per the instructions received from the Lender only.
- l) The Borrower shall continue to maintain and shall not close the Designated Account so long as any amount is due to the Lender under the Loan Agreement and till such time that the Lender advise the Borrowers and the Trust Bank in writing that all amounts have been duly received by the Lender and that no other amounts is due and payable by the Borrower to the Lender under the Loan Agreement.

For Saradambika Power Plant F



- m) Borrower shall not open any other account or establish any other mode for purpose of collection of the Receivables, without the prior written consent of the Lender.
- n) Borrower shall not create any charge, lien or any encumbrance whatsoever on the Receivables or the Designated Account, without the prior consent of the Lender.
- o) The Trust Bank shall not contest or claim any right or set-off or lien on any balance lying to the credit of the Designated Account for the payment against any indebtedness or liability or claim whatsoever of the Borrower to the Trust Bank , other than that specified in the Agreement.
- p) Either Trust Bank or the Lender may by giving 90 days notice in writing, terminate this Agreement and upon such notice this Agreement shall stand cancelled. The Borrower cannot terminate this Agreement.
- q) The Trust Bank agrees that any breach by the Borrower or offtaker/SEB's/ Purchasers of the terms of this Agreement an/or any document, deed or agreement entered into or executed by the Borrower or offtaker/SEB's/Purchasers, as the case may be, pertaining to the transaction contemplated in this Agreement shall qualify as an Event of Default under the Loan Agreement and the Lender shall be entitled to take any consequential action as they may deem necessary under the Loan Agreement. In the event of the Borrower committing any breach of the terms and conditions of this Agreement, then in addition to any remedies which the Lender may be entitled to pursue against Borrower in terms of the Loan Agreements the Lender shall be entitled to claim, including, but without limitation, specific performance by the Borrower, of its obligation hereunder in an appropriate court of law and to also claim in relation thereto, such damages as that may be entitled to in law. The decision of the Lender whether breach of the terms and conditions of this Agreement has been committed by the Borrower or offtaker /SEB / Purchasers shall be final and binding on the Borrower.
- r) The provisions contained herein shall be read in conjunction with the provisions of the Loan Agreement as amended from time to time and to extent of any inconsistency or repugnancy, the Loan Agreement shall prevail to all intents and purposes.



- (vi) The Corporate Debtor could not pay the instalments of principal, interest and funded interest and requested the IREDA for reschedulement of interest, funded interest and principal dues. The IREDA vide its letter dated 14.03.2014 (page no.13 to 16 of Memo dated 08.01.2026) rescheduled the above term loan, according to which the repayment schedule of principal and interest is as below:

1 ug 1

Main 1743	Funded 1743F1	Funded 1743F2	New Funded 1743F3	From Date	To Date	Total PRN	Total INT	Total
175.383.330	5,795,023	17,095,124	31,468,328	01-Oct-14	31-Oct-14	1810616	2169927	3980543
175.383.330	5,563,189	16,525,287	30,419,384	01-Nov-14	30-Nov-14	1810616	2080385	3891000
175.383.330	5,371,355	15,955,449	29,370,439	01-Dec-14	31-Dec-14	1810616	2129534	3940150
175.383.330	5,179,521	15,385,612	28,321,495	01-Jan-15	31-Jan-15	1810616	2109338	3919954
175.383.330	4,987,687	14,815,774	27,272,551	01-Feb-15	28-Feb-15	1810616	1886967	3697582
175.383.330	4,795,853	14,245,937	26,223,607	01-Mar-15	31-Mar-15	1810616	2068945	3879561
175.383.330	4,604,018	13,676,099	25,174,662	01-Apr-15	30-Apr-15	905308	1982660	2887968
175.383.330	4,508,101	13,391,180	24,650,190	01-May-15	31-May-15	905308	2038651	2943958
175.383.330	4,412,184	13,106,261	24,125,718	01-Jun-15	30-Jun-15	905308	1963115	2868423
175.383.330	4,316,267	12,821,343	23,601,246	01-Jul-15	31-Jul-15	905308	2018454	2923762
175.383.330	4,220,350	12,536,424	23,076,774	01-Aug-15	31-Aug-15	905308	2008356	2913664
175.383.330	4,124,433	12,251,506	22,552,302	01-Sep-15	30-Sep-15	905308	1933798	2839106
175.383.330	4,028,516	11,966,587	22,027,830	01-Oct-15	31-Oct-15	905308	1888159	2893467
175.383.330	3,932,599	11,681,668	21,503,357	01-Nov-15	30-Nov-15	905308	1914253	2819561
175.383.330	3,836,682	11,396,749	20,978,885	01-Dec-15	31-Dec-15	905308	1967963	2873271
175.383.330	3,740,765	11,111,831	20,454,413	01-Jan-16	31-Jan-16	905308	1957865	2863173
175.383.330	3,644,848	10,826,912	19,929,941	01-Feb-16	29-Feb-16	905308	1822104	2727412
175.383.330	3,548,931	10,541,993	19,405,469	01-Mar-16	31-Mar-16	905308	1937668	2842976
175.383.330	3,453,014	10,257,074	18,880,997	01-Apr-16	30-Apr-16	1357962	1865391	3223352
175.383.330	3,309,138	9,829,596	18,094,289	01-May-16	31-May-16	1357962	1912423	3270385
175.383.330	3,165,261	9,402,318	17,307,580	01-Jun-16	30-Jun-16	1357962	1836073	3194035
175.383.330	3,021,385	8,974,940	16,520,872	01-Jul-16	31-Jul-16	1357962	1882128	3240090
175.383.330	2,877,512	8,547,562	15,734,164	01-Aug-16	31-Aug-16	1357962	1866981	3224943
175.383.330	2,733,636	8,120,184	14,947,456	01-Sep-16	30-Sep-16	1357962	1792097	3150059
175.383.330	2,589,760	7,692,806	14,160,748	01-Oct-16	31-Oct-16	1357962	1836686	3194648
175.383.330	2,445,885	7,265,428	13,374,039	01-Nov-16	30-Nov-16	1357962	1762780	3120742
175.383.330	2,302,009	6,838,050	12,587,331	01-Dec-16	31-Dec-16	1357962	1806392	3164354
175.383.330	2,158,134	6,410,672	11,800,623	01-Jan-17	31-Jan-17	1357962	1791244	3149206
175.383.330	2,014,258	5,983,293	11,013,915	01-Feb-17	28-Feb-17	1357962	1604217	2962179
175.383.330	1,870,382	5,555,915	10,227,207	01-Mar-17	31-Mar-17	1357962	1702950	3118912
175.383.330	1,726,507	5,128,537	9,440,498	01-Apr-17	30-Apr-17	1357962	1689486	3047448
175.383.330	1,582,631	4,701,159	8,653,790	01-May-17	31-May-17	1357962	1730655	3088612
175.383.330	1,438,756	4,273,781	7,867,082	01-Jun-17	30-Jun-17	1357962	1660169	3018131
175.383.330	1,294,880	3,846,403	7,080,374	01-Jul-17	31-Jul-17	1357962	1700361	3068323
175.383.330	1,151,005	3,419,025	6,293,666	01-Aug-17	31-Aug-17	1357962	1685213	3043175
175.383.330	1,007,129	2,991,647	5,506,957	01-Sep-17	30-Sep-17	1357962	1616193	2974155
175.383.330	863,253	2,564,269	4,720,249	01-Oct-17	31-Oct-17	1357962	1654919	3012881
175.383.330	719,378	2,136,891	3,933,541	01-Nov-17	30-Nov-17	1357962	1586878	2944837
175.383.330	575,502	1,709,512	3,146,833	01-Dec-17	31-Dec-17	1357962	1624624	2982586
175.383.330	431,627	1,282,134	2,360,125	01-Jan-18	31-Jan-18	1357962	1609477	2967439
175.383.330	287,751	854,756	1,573,416	01-Feb-18	28-Feb-18	1357962	1440040	2798001
175.383.330	143,876	427,378	786,708	01-Mar-18	31-Mar-18	1357962	1579182	2937144
173.337.191	0	0	0	01-Apr-18	30-Apr-18	2046139	1513582	3599721
171.291.052				01-May-18	31-May-18	2046139	1545788	3591927
169.244.913				01-Jun-18	30-Jun-18	2046139	1478265	3524404
167.198.775				01-Jul-18	31-Jul-18	2046139	1509294	3555433
165.152.636				01-Aug-18	31-Aug-18	2046139	1491047	3537185
163.106.497				01-Sep-18	30-Sep-18	2046139	1425290	3471429
161.060.358				01-Oct-18	31-Oct-18	2046139	1454552	3500691
159.014.219				01-Nov-18	30-Nov-18	2046139	1389973	3436112
156.968.080				01-Dec-18	31-Dec-18	2046139	1418058	3464197
154.921.942				01-Jan-19	31-Jan-19	2046139	1399811	3445950
152.875.803				01-Feb-19	28-Feb-19	2046139	1247864	3294003
150.829.664				01-Mar-19	31-Mar-19	2046139	1363317	3409496
148.783.525				01-Apr-19	30-Apr-19	2046139	1301681	3347820
146.737.386				01-May-19	31-May-19	2046139	1326823	3372962
144.691.247				01-Jun-19	30-Jun-19	2046139	1266364	3312501
142.645.108				01-Jul-19	31-Jul-19	2046139	1290329	3336468
140.598.970				01-Aug-19	31-Aug-19	2046139	1272082	3318221
138.552.831				01-Sep-19	30-Sep-19	2046139	1213388	3259527
136.506.692				01-Oct-19	31-Oct-19	2046139	1235588	3281726
134.460.553				01-Nov-19	30-Nov-19	2046139	1178071	3214210
132.414.414				01-Dec-19	31-Dec-19	2046139	1199093	3245232
130.368.275				01-Jan-20	31-Jan-20	2046139	1180846	3216985
128.322.136				01-Feb-20	29-Feb-20	2046139	1087593	3133732
126.275.998				01-Mar-20	31-Mar-20	2046139	1144352	3190491
124.229.859				01-Apr-20	30-Apr-20	1973062	1089779	3062842
124.229.859				01-May-20	31-May-20	1973062	1108510	3081572



(vii) The suspended Director, namely, Satya Srinivasa Boyina, vide letter dated 09.06.2015 (page no.243 & 244 of Memo dated 04.08.2025) gave the payment instructions to the Superintending Engineer, MSEDCL to release the monthly energy bills to SBI, Chimur. The extract of the above letter is reproduced below:

भारतीय स्टेट बैंक
State Bank of India

(11422) - CHIMUR, DIST. CHANDRAPUR
NEAR TANSIL OFFICE AT, PO TANSIL CHIMUR
DIST. CHANDRAPUR 442903
IFSC Code: SBIN0011422

को या उनके व्यक्तिगत बैंक खाते पर

PAY TO THE ORDER OF

रुपये

30349806862

Prefix : 0438200002

वै. 5,000,000.00 & UNDER

SARADAMBICA POWER PLANT PVT LTD (SARADAMBICA POWER PLANT PVT LTD)
DIRECTOR

MULTI-CITY CHEQUE Payable at Par at All Branches of SBI

Please sign above

* 291127# 442002547# 000011# 29

INDIA NON JUDICIAL



महाराष्ट्र MAHARASHTRA
NOTARIAL REG.
ENTRANCE NO. 8102
DATE 9/6/15



LW 935910
19/7/15
State Treasury Office
Chimur

Dated 9th June 2015

Ref: SPPPL/15-16/014

To,
The Superintendent Engineer,
MSEDCL O & M Circle,
Chandrapur, Maharashtra

Dear Sir,

Sub: Payment Instructions to our Current Account, re: Monthly Energy Bills

We on behalf of M/s. Saradambika Power Plant Pvt Ltd (SPPPL) hereby authorize MSEDCL to release the payment of our monthly energy bills through RTGS. The details of our Current Account are detailed below:

Details of Account:

Name of the Account - SARADAMBICA POWER PLANT PVT LTD
Name of the Bank - STATE BANK OF INDIA
Current Acc No - 30349806862
Branch Details - CHIMUR BRANCH, DIST. CHANDRAPUR, MAHARASHTRA
IFSC Code - SBIN0011422

By Manager (F&A) - I Audit
39
08-06-15

Cashier P/S for M.A.
08-06-15

68

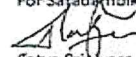
Company Contact Details:

Contact person - Satya Srinivasa Boyina (Director)
 Mobile No - 9225221213
 Email Id - satyasreenu@gmail.com/saradambikapower@yahoo.co.in

Further we on behalf of SPPPL undertake that we will be jointly and severally responsible for any loss/expenses arising in making the payment on above stated bank details, and it will be our responsibility to inform/communicate any change in the account details.

Thanking you Sir

Yours Sincerely,
 For Saradambika Power Plant Pvt Ltd


 Satya Srinivasa Boyina
 Director



Encl: A crossed Cheque of our Current Account

(viii) The Corporate Debtor could not serve the IREDA's dues in time and requested the IREDA to reschedule the principal and funded interest and further sanction of loan of Rs.893.44 lakhs under NCEF pre-financing scheme, which was accepted by the IREDA vide its letter dated 31.03.2017 (page no.6 to 12 of Memo dated 08.01.2026), according to which the repayment schedule of loan and interest is as below:



Tentative Loan Repayment Programme of 70% Outstanding Loan of Rs. 1238.18 Lakhs and Payment Schedule of 70% Funded Interest (FTIL-1) of Rs. 846.51 Lakhs and Payment Schedule of 30% NCEF Component of Rs. 893.44 Lakhs

(Rs. in Lakhs)

Sr. NO.	Month	Principal IREDA-Main	Principal-NCEF	Principal-FTIL-IREDA
1	Apr-16	0.00	0.00	0.50
2	May-16	0.00	0.00	1.21
3	Jun-16	0.00	0.00	1.21
4	Jul-16	0.00	0.00	1.21
5	Aug-16	0.00	0.00	1.21
6	Sep-16	0.00	0.00	1.21
7	Oct-16	0.00	0.00	9.31
8	Nov-16	0.00	0.00	9.31
9	Dec-16	0.00	0.00	9.31
10	Jan-17	0.00	0.00	9.31
11	Feb-17	0.00	0.00	9.31
12	Mar-17	0.00	0.00	9.31
13	Apr-17	0.00	2.68	8.47
14	May-17	0.00	2.68	8.47
15	Jun-17	0.00	2.68	8.47
16	Jul-17	0.00	2.68	8.47
17	Aug-17	0.00	2.68	8.47
18	Sep-17	0.00	2.68	8.47
19	Oct-17	0.00	2.68	8.47
20	Nov-17	0.00	2.68	8.47
21	Dec-17	0.00	2.68	8.47
22	Jan-18	0.00	2.68	8.47
23	Feb-18	0.00	2.68	8.47
24	Mar-18	0.00	2.68	8.47
25	Apr-18	0.00	2.68	10.58
26	May-18	0.00	2.68	10.58
27	Jun-18	0.00	2.68	10.58
28	Jul-18	0.00	2.68	10.58
29	Aug-18	0.00	2.68	10.58
30	Sep-18	0.00	2.68	10.58
31	Oct-18	0.00	2.68	10.58

32	Nov-18	0.00	2.68	
33	Dec-18	0.00	2.68	10.58
34	Jan-19	0.00	2.68	10.58
35	Feb-19	0.00	2.68	10.58
36	Mar-19	0.00	2.68	10.58
37	Apr-19	0.00	2.68	12.98
38	May-19	0.00	2.68	12.98
39	Jun-19	0.00	2.68	12.98
40	Jul-19	0.00	2.68	12.98
41	Aug-19	0.00	2.68	12.98
42	Sep-19	0.00	2.68	12.98
43	Oct-19	0.00	2.68	12.98
44	Nov-19	0.00	2.68	12.98
45	Dec-19	0.00	2.68	12.98
46	Jan-20	0.00	2.68	12.98
47	Feb-20	0.00	2.68	12.98
48	Mar-20	0.00	2.68	12.98
49	Apr-20	0.00	2.68	15.80
50	May-20	0.00	2.68	15.80
51	Jun-20	0.00	2.68	15.80
52	Jul-20	0.00	2.68	15.80
53	Aug-20	0.00	2.68	15.80
54	Sep-20	0.00	2.68	15.80
55	Oct-20	0.00	2.68	15.80
56	Nov-20	0.00	2.68	15.80
57	Dec-20	0.00	2.68	15.80
58	Jan-21	0.00	2.68	15.80
59	Feb-21	0.00	2.68	15.80
60	Mar-21	0.00	2.68	15.80
61	Apr-21	0.00	2.68	19.19
62	May-21	0.00	2.68	19.19
63	Jun-21	0.00	2.68	19.19
64	Jul-21	0.00	2.68	19.19
65	Aug-21	0.00	2.68	19.19
66	Sep-21	0.00	2.68	19.19
67	Oct-21	0.00	2.68	19.19
68	Nov-21	0.00	2.68	19.19
69	Dec-21	0.00	2.68	19.19
70	Jan-22	0.00	2.68	
71	Feb-22	0.00	2.68	
72	Mar-22	14.45	2.68	
73	Apr-22	16.92	7.82	
74	May-22	16.92	7.82	
75	Jun-22	16.92	7.82	
76	Jul-22	16.92	7.82	
77	Aug-22	16.92	7.82	
78	Sep-22	16.92	7.82	
79	Oct-22	16.92	7.82	
80	Nov-22	16.92	7.82	
81	Dec-22	16.92	7.82	
82	Jan-23	16.92	7.82	
83	Feb-23	16.92	7.82	
84	Mar-23	16.92	7.82	
85	Apr-23	20.22	7.82	
86	May-23	20.22	7.82	
87	Jun-23	20.22	7.82	
88	Jul-23	20.22	7.82	
89	Aug-23	20.22	7.82	
90	Sep-23	20.22	7.82	
91	Oct-23	20.22	7.82	
92	Nov-23	20.22	7.82	
93	Dec-23	20.22	7.82	
94	Jan-24	20.22	7.82	
95	Feb-24	20.22	7.82	
96	Mar-24	20.22	7.82	
97	Apr-24	19.40	11.91	
98	May-24	19.40	11.91	
99	Jun-24	19.40	11.91	
100	Jul-24	19.40	11.91	
101	Aug-24	19.40	11.91	
102	Sep-24	19.40	11.91	
103	Oct-24	19.40	11.91	
104	Nov-24	19.40	11.91	
105	Dec-24	19.40	11.91	
106	Jan-25	19.40	11.91	
107	Feb-25	19.40	11.91	



108	Mar-25	19.40	11.91
109	Apr-25	21.94	14.89
110	May-25	21.94	14.89
111	Jun-25	21.94	14.89
112	Jul-25	21.94	14.89
113	Aug-25	21.94	14.89
114	Sep-25	21.94	14.89
115	Oct-25	21.94	14.89
116	Nov-25	21.94	14.89
117	Dec-25	21.94	14.89
118	Jan-26	21.94	14.89
119	Feb-26	21.94	14.89
120	Mar-26	21.94	14.89
121	Apr-26	23.53	18.61
122	May-26	23.53	18.61
123	Jun-26	23.53	18.61
124	Jul-26	23.53	18.61
125	Aug-26	23.53	18.61
126	Sep-26	23.53	18.61
127	Oct-26	23.53	18.61
128	Nov-26	23.53	18.61
129	Dec-26	23.53	18.61
130	Jan-27	23.53	18.61
131	Feb-27	23.53	18.61
132	Mar-27	23.20	18.61
	Total	1238.18	893.44
			846.51



33. Now, we consider it appropriate to refer to the provisions of Section 66 of the IBC, which reads as below:

66. *Fraudulent trading or wrongful trading.* –

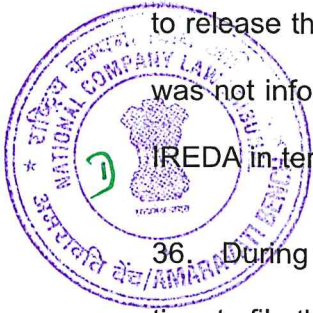
- (1) *If during the corporate insolvency resolution process or a liquidation process, it is found that any business of the corporate debtor has been carried on with intent to defraud creditors of the corporate debtor or for any fraudulent purpose, the Adjudicating Authority may on the application of the resolution professional pass an order that any persons who were knowingly parties to the carrying on of the business in such manner shall be liable to make such contributions to the assets of the corporate debtor as it may deem fit.*
- (2) *On an application made by a resolution professional during the corporate insolvency resolution process, the Adjudicating Authority may by an order direct that a director or partner of the corporate debtor, as the case may be, shall be liable to make such contribution to the assets of the corporate debtor as it may deem fit, if-*
 - (a) *before the insolvency commencement date, such director or partner knew or ought to have known that there was no reasonable prospect of avoiding the commencement of a corporate insolvency resolution process in respect of such corporate debtor; and*
 - (b) *such director or partner did not exercise due diligence in minimising the potential loss to the creditors of the corporate debtor.*

34. It is noted that the Liquidator at para 18 of the IA, has averred that after considering the facts and circumstances of the case he is of the opinion that the business of the Corporate Debtor has been carried with a fraudulent intent and on a prima facie basis, the transactions in question squarely falls within the ambit of Section 66 of the IBC.

35. It is observed that in spite of specific provision in the TRA Agreement, the suspended Director opened a separate account with SBI Chimur and issued a letter to the MSEDCL for payment instructions to the Superintending Engineer, MSEDCL to release the monthly energy bills to SBI, Chimur. The opening of account with SBI was not informed to the IREDA and no prior written consent was obtained from the IREDA in terms of Clause 3.02(m) of the TRA Agreement.

36. During the course of hearing dated 18.11.2025, the suspended Directors sought time to file the legal proposition along with relevant judgments of the superior Courts to establish that in cases where a TRA/Escrow Account has been mandated & opened, but funds were not deposited into the said Account, such conduct would not amount to fraudulent transaction under the provisions of the IBC. However, the suspended Directors have not filed any relevant judgments of the superior Courts in this regard.

37. During the course of hearing dated 18.11.2025, the Applicant also sought time to place on record the legal propositions along with the relevant judgments of the superior Courts to demonstrate that where a TRA/Escrow Account is mandated under an Agreement, the failure of the Corporate Debtor to route the funds through such TRA/ Escrow Account and the opening of an alternate bank account for the same would amount to a fraudulent transaction within the purview of Section 66 of the IBC.



The Applicant vide Memo dated 02.12.2025 has filed two judgments of the Co-ordinate Bench i.e. Hon'ble NCLT Mumbai Bench and Hon'ble NCLT Bengaluru Bench and one of the Hon'ble NCLAT judgment, however, none of these judgments address the issue raised by the Bench.

38. In view of the above facts and the provisions of Section 66 of the Code, we are of the considered view that diversion of funds to the SBI Chimur falls under the fraudulent transaction. Since the above amount has been credited to the SBI, Chimur based on the instructions of the suspended Director, we are of the considered view that the suspended Directors are required to contribute to the assets of the Corporate Debtor.

39. The next question that arises before us is "what amount needs to be contributed by the suspended Directors to the assets of the Corporate Debtor".

- (i) In the present case, this Tribunal has already recorded a categorical finding that the routing of receivables outside the TRA, in deviation of Clause 3.02(g) of the TRA Agreement, was not in consonance with the agreed contractual framework governing the cash-flow mechanism. Such deviation, in the facts of the present case, attracts the mischief contemplated under Section 66 of the Code to the extent that it resulted in diversion of funds. However, the quantification of liability remains seriously contested.
- (ii) The suspended Directors, in their reply filed vide Diary No.1870 dated 16.09.2025, in response to the Compliance Memo dated 04.08.2025 filed by the Liquidator, have contended that out of Rs.57,21,54,822/- received from MSEDCL during the relevant period, Rs.42,83,05,248/- has already

been credited to the TRA. It is further contended by them that the differential amount would be Rs.1,96,65,524/- after considering the sum of Rs.3,78,74,306/-, which is stated to have been paid to IREDA. The details of aforesaid working available in their reply is shown in Table below:

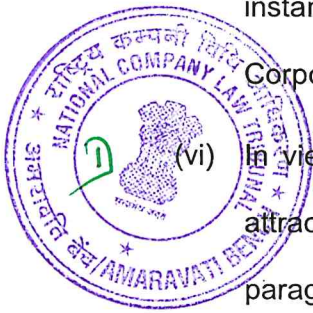
Particulars	Amount (Rs.)	Remarks
Total amount alleged by the Applicant to have been received in SBI Chimur account	57,21,54,822	As per Applicant's statement
Amount already credited to the TRA	42,83,05,248	Duly transferred in compliance with Agreement.
Balance amount (57,21,54,822 – 42,83,05,248)	14,38,49,574	Remaining funds after credit to the TRA
40% of the balance amount (14,38,49,574 × 40%)	5,75,39,830 (approx.)	Amount, if any, to be credited towards IREDA loan account
Actual payment made by the Corporate Debtor to IREDA	3,78,74,306	Already discharged by Corporate Debtor
Differential, if any	1,96,65,524 (approx.)	Not material compared to exaggerated claim of Applicant.



- (iii) On the other hand, the Liquidator has disputed the correctness of this reconciliation and the computation methodology adopted by the suspended Directors and has sought contribution of 40% of the total receipts, amounting to Rs.22,88,61,929/-, placing reliance upon Clause 3.02(g) of the TRA Agreement. The Applicant's contention is that the said percentage represents the contractual entitlement under the structured repayment arrangement.
- (iv) This Adjudicating Authority is of the considered view that determination of liability under Section 66 cannot be reduced to a mechanical application of a contractual percentage on gross receipts, nor can it be conclusively restricted to the differential figure asserted by the suspended Directors in the absence of a comprehensive and verified reconciliation. The exercise necessarily requires examination of (i) actual inflows received during the

relevant period, (ii) credits made to the TRA, (iii) the net shortfall, if any, attributable to the TRA.

- (v) The jurisdiction under Section 66, though remedial in nature, does not dispense with the requirement of factual crystallisation of the amount that can legitimately be directed as contribution. In the present case, the quantum payable has not yet crystallised and involves detailed reconciliation of accounts and verification of repayments, an exercise which is more appropriately undertaken by the Liquidator in the first instance, in his capacity as custodian of the assets and records of the Corporate Debtor.



- (vi) In view of the foregoing, while holding that the conduct complained of attracts Section 66 of the Code to the extent recorded in the preceding paragraphs, this Adjudicating Authority refrains from quantifying the disputed amount in the present summary proceedings. Accordingly, the Liquidator is directed to undertake a comprehensive reconciliation and computation of the net shortfall, if any, strictly in accordance with terms of the TRA Agreement, and the duly verified payments already made. The Liquidator shall afford reasonable opportunity to the suspended Directors to furnish relevant records, statements of accounts, and explanations for the purpose of such reconciliation, and shall determine the net contribution, if any, payable after due verification.
- (vii) At the same time, we cannot ignore the fact that the suspended Directors have admitted that the differential amount would be Rs.1,96,65,524/- even after considering the sum of Rs.3,78,74,306/-, which is stated to have been paid to the IREDA.

(viii) Keeping in view the above facts, we are of the considered view that pending the aforesaid reconciliation, the suspended Directors are directed to contribute an amount of Rs.1,96,65,524/- to the liquidation estate of the Corporate Debtor

(ix) Upon final determination of the quantified shortfall, if any, the Liquidator shall be at liberty to initiate or pursue appropriate proceedings for the balance amount, if any, from the suspended Directors, in accordance with law

40. As a sequel to the above discussion, IA (IBC)/401/2022 is accordingly partly allowed in the above terms and stands disposed of. No order as to costs.

Sd/-
(Umesh Kumar Shukla)
Member (Technical)

Sd/-
(Kishore Vemulapalli)
Member (Judicial)

Krishna & Suresh

प्रमाणित प्रति/CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER
निर्णय का तारीख
DATE OF JUDGEMENT
प्रति विचार किया गया तारीख
BE READY ON

[Handwritten Signature]
Deputy Registrar / Assistant Registrar /
Court Officer
NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH