S.No.6

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – II
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
17.04.2026 AT 10:30 A.M.

IA (IBC)/1963/2025 IA (IBC)/1964/2025 IA (IBC)/1972/2025 in
CP (IB) No. 390/95/HDB/2020
U/s 95 of IBC

IN THE MATTER OF:
State Bank of India **…Petitioner**

AND

Mulpuri Siva Ramakrishna &
Athena Chhattisgarh Power Ltd **…Respondent**

C O R A M:-
SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)
SHRI. SANJAY PURI, HON'BLE MEMBER (TECHNICAL)

O R D E R

IA (IBC)/1963/2025
Orders pronounced, recorded vide separate sheets. In the result, the IA (IBC)/1963/2025 is disposed of with directions.

IA (IBC)1964/2025
Orders pronounced, recorded vide separate sheets. In the result, the IA (IBC)/1964/2025 is dismissed.

IA (IBC)1972/2025
Orders pronounced, recorded vide separate sheets. In the result, the IA (IBC)/1972/2025 is partly allowed.

Sd/- **Sd/-**
MEMBER (T) **MEMBER (J)**

Vamsi

THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH -II

IA (IBC) No.1963 of 2025 in

CP (IB) No. 390/95/HDB/2020

In the matter of

Mr. Mulpuri Siva Ramakrishna, Personal Guarantor

BETWEEN:

Sivaram Prasad Bhamidi,
Bankruptcy Trustee in the matter of
Mr. Mulpuri Siva Ramakrishna, Personal Guarantor
to the Corporate Debtor Athena Chhattisgarh Power Limited

…Applicant

And

Mr Mulpuri Siva Ramakrishna
Mrs Spandana Mulpuri

…Respondents

Date of Order: 17.04.2026

CORAM:

Shri Rajeev Bhardwaj, Hon'ble Member (Judicial)
Shri Sanjay Puri, Hon'ble Member (Technical)

Counsel/Parties present:

For the Applicant : Mr. G. Srikanth, Ld. Counsel, along with Mr. Sivarama Prasad, Bankruptcy Trustee

For Respondents : Mr. CH. Srinivasulu, Ld. Counsel

1. This Interlocutory Application has been filed by the Applicant, the Bankruptcy Trustee, seeking appropriate directions against Respondent No.2 for recovery of an amount of 45,00,000/- alleged to have been transferred by the Bankrupt, Respondent No.1, in favour of Respondent No.2, purportedly constituting a preferential transaction under Section 165 of the Insolvency and Bankrupcty Code, 2016 ("**Code**").

2. It is submitted that this Adjudicating Authority, vide order dated 24.01.2025 passed in IA (IBC) No. 2110/2024 in CP (IB) No. 390/95/HDB/2020, initiated the bankruptcy process against Respondent No.1, who is the personal guarantor to the corporate debtor, and appointed Mr. Dantu Indu Sekhar as the Bankruptcy Trustee under Section 125 of IBC, 2016.

3. It is submitted that upon resignation of the erstwhile Bankruptcy Trustee, this Adjudicating Authority, vide order dated 01.09.2025 in IA (IBC) No. 1423/2025, appointed the present Applicant as the Bankruptcy Trustee in terms of Section 146 of IBC, 2016.

4. The Applicant states that the previous Bankruptcy Trustee appointed a Transaction Auditor to examine the financial affairs of the Bankrupt for the relevant period, with a view to identifying transactions falling within the ambit of the avoidance provisions, including preferential transactions.

5. It is asserted that the Transaction Auditor, upon conducting the audit, submitted a report dated 03.11.2025 identifying certain transactions as suspicious in nature. As per the said report, a sum of Rs 45,00,000/- was transferred by the Bankrupt in favour of Respondent No.2, which, according to the Applicant, falls within the purview of preferential transactions.

6. The Applicant has averred that the said transaction was undertaken towards repayment of an antecedent debt allegedly owed by the

Bankrupt to Respondent No.2 and that such repayment resulted in giving preference to Respondent No.2 over other creditors of the Bankrupt.

7. It is further contended that Respondent No.2 is the daughter of the Bankrupt and therefore qualifies as an "associate" within the meaning of Section 79(2) of IBC, 2016, and consequently, the relevant look-back period of two years is applicable in the present case.

8. The Applicant asserts that the application for initiation of bankruptcy was filed on 18.10.2024 and that the impugned transaction falls within the period of two years preceding the said date, thereby satisfying the requirement of the relevant period under Section 165 of IBC, 2016.

9. It is the case of the Applicant that the repayment made to Respondent No.2, being an associate and in respect of an antecedent debt, has the effect of placing Respondent No.2 in a more beneficial position vis-à-vis other creditors and therefore constitutes a preferential transaction liable to be set aside.

10. On the basis of the above, the Applicant has prayed for directions to Respondent No. 2 to repay the sum of Rs 45,00,000/- to the bankruptcy estate of Respondent No.1, along with such further orders as this Adjudicating Authority may deem fit in the facts and circumstances of the case.

Counter

11. The Respondents deny all allegations and contentions raised in this IA filed by the Bankruptcy Trustee under Section 165 of the Code and submit that the IA is misconceived, devoid of merit, and based on an erroneous interpretation of facts and law, mechanically adopted by the Applicant without independent application of mind.

12. According to the Respondent, the transaction of Rs 45,00,000 dated 31.01.2023 does not constitute a "Preferential Transaction" as defined under the Code. This payment was a legitimate repayment of a temporary accommodation provided for a specific purpose, not intended to prefer one creditor over others. The transactions were temporary financial accommodations between family members and not otherwise. Even the Transaction Audit report referred to the information shared by Respondent 1. The BT misunderstood the same and filed the instant application mechanically based on the Transaction Audit.

13. The Respondent No 1 contends that Respondent 2 is an "associate" (daughter), the presumption of influence under Section 165(7) is rebutted by the fact that the transaction was a restricted, purpose-based receipt of funds. The Transaction Auditor himself noted in his report that since the funds were for a Bank Guarantee/passport purpose, the transaction "can be ignored as it is not a normal repayment".

14. It is stated by the Respondent No 1 that the Bankrupt has a constitutional right to travel, which was subject to court-mandated bank guarantees. The High Court, New Delhi, vide its Orders dated 4 April 2014 and 25 April 2014, allowed the temporary release of the passport on furnishing the Bank Guarantee in favour of the Regional Passport officers. Securing funds from family members (associates) to comply with judicial/CBI requirements is an act in the ordinary course of legal proceedings and does not qualify as a business debt repayment intended to defraud other creditors.

15. It is submitted by the Respondent No 1 that Section 165 deems preference only if the bankrupt "does anything which has the effect of putting that person in a beneficial position" over other creditors. In the instant case, Rs. 50 lakhs was not estate property but a ring-fenced advance for passport release; repayment restored status

quo without depleting estate. The presumption under Sec 165(7) for associates is rebutted by evidence of purpose.

16. It is argued by the Respondent that the bank guarantee was required to be obtained by the Respondent to get the release of his passport, which was detained by the passport authorities in connection with an investigation by the CBI. As a matter of the hour, Mrs Spandana Mulpuri, the second respondent, has arranged funds for her father to Respondent No.1 to meet the required funds for fixing in FD and to obtain a BG for travel amid passport hold.

17. It is submitted that the Audit flags Rs. 45 lakhs payment as "repayment of debt" (pre-existing Rs. 50 lakhs loan). The Bankrupt received Rs. 50 lakhs from his daughter Spandana Mulpuri on 19 Sep 2022 in the UCO Bank account no. 4867 specifically for fixed deposits backing a Rs. 50 lakh bank guarantee to release the passport held by the authorities amid CBI investigation. The repayment of Rs. 45,00,000/- was done by Respondent No.1 on 31.01.2023 to Respondent No.2, Mrs Spandana Mulpuri, which was prompt post-travel, using prior funds. There is no diversion from the estate.

18. It is stated by the Respondent No 1 that No creditor was deprived of his rights because of this need and hourly based transaction to the Respondent No.1. The bailout of the need of hour to his father was taken on the shoulders of the daughter. There are no violations attributable under preferential transactions as alleged by the Bankruptcy Trustee.

19. It is alleged that the act of BT is a gross abuse of law and his position. The transaction is not under Section 165(2)/(7)/(8)(a)-(b) as no "doing or suffering" to prefer associate over creditors. It was a closed-loop advance for personal exigency. The so-called opinion is mechanical and non-speaking. The Trustee has failed to independently examine whether the transaction was (a) a transfer of property for the benefit of

a creditor, (b) for an antecedent debt, (c) resulting in preference, and (d) covered by statutory exceptions.

20. The Respondent denied that the Respondent No.2 was a creditor. The amount of Rs. 50 lakhs was provided only to enable Respondent No.1 to create a fixed deposit as margin for a bank guarantee in favour of passport authorities for the release of the passport as per the directions of the High Court order. The money was never meant as a loan or financial debt and is only a temporary arrangement between father and daughter.

21. It is asserted that the Transaction Auditor in page no. 11 of his report was of the view that repayment of Ms Spandana Mulpuri can be ignored as it is not a normal repayment. The BT mechanically filed the instant IA, which is liable to be dismissed in limine. It is further submitted that repayments made under legal compulsion or for the release of essential legal documents such as a passport, do not constitute a preference as the Bankrupt has no choice but to satisfy that specific condition. It is also submitted that preference requires material prejudice to creditors, which is absent in the present case, as the funds were personal support and not creditor dues.

Rejoinder

22. It is submitted that the submissions made by Respondent No.1 to 2 are denied and further stated that the sub-section (7) of Section 165 of the IBC code states that "For the purpose of sub-section (6), if the person is an associate of the bankrupt, (otherwise than by reason only of being his employee), at the time when the preference was given, it shall be presumed that the bankrupt was influenced in his decision under that sub section." It is submitted in para 4.4 that the Respondent No 1 admitted that the beneficiary, Respondent No.2 is an Associate of Respondent No. 1.

23. It is submitted that in the initial transaction 19.09.2022, the Respondent No.2 had provided the Respondent No.1/ bankrupt with Rs. 50,00,000/-, supposedly for a deposit with the Passport Authority. Subsequent to receipt of the fixed deposit amount return, on 26.12.2022, the Bankrupt, instead of returning the same to Respondent No.2, had given the said amount to his son Mr. Rushyant.

24. On 31.01.2023, an amount of Rs. 50,00,000/- was received from a person named Kutumba Rao, out of which only Rs. 45,00,000/- was paid to Respondent No.2. The mismatch Rs. 50,00,000/- vs. Rs. 45,00,000/- indicates it was not a simple one-to-one pass-through transaction as claimed by the Respondents. Had the respondent had paid the amount so received from the deposit so released for passport, the amount so received on 31.01.2023 would have been in the liquidation estate available to the BT.

25. It is contented that the Bankrupt had unjustly enriched his family by making a payment of 5,00,000/- to his son, which otherwise goes to Respondent No.2 and then paying 45,00,000/ - to Respondent No.2 from completely unrelated funds, clearly showing the intent of the Respondent No.1 to siphon the amounts that are otherwise available to the Creditors.

26. Further, the respondent in his counter at para 4.2 stated that "this payment was a legitimate repayment of temporary accommodation," and thereby admitted that it was a repayment and thus admitted that Respondent No.2 was his creditor. Accordingly, the admission supports the view that the beneficiary of the transaction is either "Any person" (satisfying the sub-section (1)) or a creditor (as admitted by the bankrupt / respondent and thus satisfying clause (a) of sub-section (8)).

27. It is submitted that the Transaction auditor in his report [Pg, 60 of paper book & Pg 11 of his report] made the following observation:

"Further, as discussed over the phone Rs. 45,00,000/- payment to Spandana Mulpuri [associate] and Rs. 5,00,000/- to Rushyant Mulpuri on 31.01.2023 were paid. However, it is informed to us that Rs. 50 lacs received from Spandana D/o. MSRK on 19th September 2022 for arranging BG for visa purposes on account of MSRK's foreign visit as security in terms of restrictions and repayment on return to Spandana. Hence, the same can be ignored as it is not a normal repayment. However, taking a legal opinion on its admissibility, BT may take an appropriate decision in which case, if considered as such, the preferential transaction would be Rs. 1,97,15,822/-."

28. It states that the Transaction auditor had not done any act to see the transactions in full scope and simply relied upon the oral discussion with the Bankrupt and left the issue open for BT opinion and further action. For the sake of brevity, the applicant has addressed only the material aspects in the rejoinder. The applicant respectfully craves the leave of this Court to advance submissions on other points at the time of oral arguments.

Findings and Decision

29. We have carefully considered the pleadings, documents on record, submissions of the parties, and the provisions of the Code. The transaction under perusal is a payment of Rs. 45,00,000/- made by the Bankrupt on 31.01.2023 in favour of Respondent No. 2. The issue is whether such transactions fall under the purview of Section 165 of the Code as a preferential transaction.

30. The application for the initiation of bankruptcy was filed on 18.10.2024. Under Section 165 of the Code, a transaction is considered within the relevant period if it is entered into within two years preceding the date of the bankruptcy application, where the beneficiary is an associate. It is not in dispute that Respondent No. 2 is the daughter of Respondent No. 1. Accordingly, she qualifies as an

associate under Section 79(2) of the Code, and the transaction falls squarely within the prescribed look-back period.

31. The Applicant contends that the payment was toward an antecedent debt, thereby preferring Respondent No. 2 over other creditors. The Respondents argue that the transaction was a "closed-loop" arrangement, a temporary financial accommodation provided by the daughter specifically to facilitate a court-mandated Bank Guarantee (BG) for the release of the Bankrupt's passport.

32. On perusal of the bank statements, the sequence of transactions is clear.

Date	Amount Received	Transactions Details
19.09.2022	Rs 50,00,000	Received from Spandana (R2) towards passport issue through UCO Bank
19.09.2022	Rs 50,00,000	Fixed Deposit placed & BG Purchased for the release of the passport in UCO Bank
26.12.2022	Rs 50,35,643	BG Cancelled and FD Liquidated + Interest Received in UCO Bank
31.01.2023	45,00,000	Amount paid to Spandana through HDFC Bank

33. For a transaction to qualify as preferential under Section 165 of the Code, it must be shown that the act of the bankrupt had the effect of placing a creditor or associate in a better position than they would have been in the event of bankruptcy. The impact of the transaction on the bankruptcy estate is also significant. The amount of Rs. 45,00,000/- was paid out of funds that would otherwise have formed part of the estate available for distribution among all creditors. By directing this amount to Respondent No. 2, the bankrupt effectively reduced the pool of assets available to other creditors.

34. Such a payment results in unequal treatment among creditors, particularly when the beneficiary is a family member. The impugned transaction has clearly resulted in a better position for Respondent No. 2 compared to other similarly placed creditors.

35. In view of the above findings, the payment of Rs. 45,00,000/- dated 31.01.2023 in favour of Respondent No. 2 is declared to be a preferential transaction under Section 165 of the Insolvency and Bankruptcy Code, 2016. Accordingly, Respondent No. 2 is hereby directed to refund the sum of Rs. 45,00,000/- to the bankruptcy estate of Respondent No. 1 within a period of 30 days from the date of this order.

This application is allowed and disposed of accordingly

Sd/-	**Sd/-**
SANJAY PURI	**RAJEEV BHARDWAJ**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**