



S.No.1

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1  
VC AND PHYSICAL (HYBRID) MODE  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
11-03-2026 AT 01:05 P.M.**

**CP (IB) No. 75/9/HDB/2023**

**AND**

**IA (IBC) No: 434/2025 in CP (IB) No. 75/9/HDB/2023**

u/s. 9 of IBC, 2016

**IN THE MATTER OF:**

M/s. ZTE Corporation

...Operational Creditor

**AND**

M/s. Smartron Indian Private Limited

...Corporate Debtor

**CORAM:-**

**SH. RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)**

**SH. SANJAY PURI, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

**IA (IBC) No: 434/2025**

Present: Ms. T. Sandya, Ld. PCS for the Respondent no.3.

**Orders pronounced, recorded vide separate sheets.**

**In the result, this Application is dismissed.**

**Sd/-**

**MEMBER (T)**

**Sd/-**

**MEMBER (J)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
HYDERABAD BENCH -I, HYDERABAD  
IA (IBC) 434 of 2025**

**In  
CP(IB) No. 75/9/HDB/2023**

*Under Section 65 and S 60(5) of IBC,2016 R/w Rule.11 Of NCLT Rules,2016)*

**IN THE MATTER OF M/s. Smartron India Private Limited**

**BETWEEN:**

**Mr. Srikar Reddy Vempati,**

R/o 1-56-11/16 MIG 61, Teja Apartment,  
Flat No. S4, M V P Colony, Sector-1,  
Near Teja Apartment Auto Stand, Visakhapatnam-530017

...Applicant

Versus

**1. M/s. Smartron India Private Limited**

(Company Dissolved as per the orders of this Tribunal)  
Vaishnavi's Cynosure, Unit No. 9C & 9D, 9th Floor, Gachibowli,  
Serilingampally, Survey No. 18, Hyderabad - 500032

**2. ZTE Corporation, China**

Through its Authorized Representative Ms. Xin Tong  
Regd. office at ZTE Plaza, Keji Road South,  
Hi-Tech Industrial Part, Nashan District, Shenzhen, P.R.China.

**3. Mr. Raghu Babu Gunturu**

Erstwhile Resolution Professional of Smartron India Private Limited  
office at 1st Floor, Golden Heights Plot no 9,  
Opp. Raheja IT Mindspace HUDA,  
Techno Enclave, Madhapur, Hyderabad – 500081

...Respondents

**Date of order: 11.03.2026**



**Coram:**

**Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)**

**Sri Sanjay Puri, Hon'ble Member (Technical)**

**Parties/Counsels:**

For Applicant : Mr. VK Sajith, Advocate  
For Respondent No.2 : Mr. Rupesh Gupta, Advocate  
For Respondent No.3 : Mr. VVSN Raju, Advocate

**ORDER**

1. This is an Application filed by Mr. Srikar Reddy Vempati<sup>1</sup> under Section 65 read with Section 60(5) of the Insolvency and Bankruptcy Code<sup>2</sup>, 2016, against the Respondents, inter alia, seeking for the following relief:
  - i) To impose a maximum penalty of rupees One Crore under section 65 of code holding Respondent No.1 guilty for Fraudulent or malicious initiation of proceedings with fraudulent intention of pushing the Corporate Debtor into CIRP;
  - ii) Direct the Respondent 3 to complete the process of CIRP/Liquidation as mandated under the Law.

**Brief Background of the Case:**

2. That the M/s. Smartron India Private Limited<sup>3</sup> was admitted into the Corporate Insolvency Resolution Process (CIRP) vide this Tribunal's Order dated 10.01.2024 passed on an application filed by ZTE Corporation<sup>4</sup>, China under Section 9 of the Code.
3. Thereafter, upon the Resolution Professional<sup>5</sup> certifying that there were no assets belonging to the Corporate Debtor for realization or

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<sup>1</sup> Applicant

<sup>2</sup> Code

<sup>3</sup> Respondent No.1/ Corporate Debtor

<sup>4</sup> Respondent No.2

<sup>5</sup> Respondent No.3/Resolution Professional



distribution, this Tribunal vide its order in IA(IBC)(Dissolution) No.13/2024 dated 05.11.2024 had dissolved the Corporate Debtor under Section 54 of the Code.

**Case Of the Applicant:**

4. It is submitted that Applicant is an investor and desirous of acquiring the Corporate Debtor as a going concern, having regard to its goodwill, trademarks, intellectual property rights and overall business potential.
5. It is submitted that, upon an application filed by Respondent No. 2 under Section 9 of the Code, this Tribunal, vide order dated 10.01.2024, admitted the Corporate Debtor into CIRP and appointed Respondent No. 3 as the Interim Resolution Professional. Thereafter, a public announcement in Form A was issued on 17.01.2024 inviting claims.
6. It is submitted that the initiation of CIRP and the appointment of Respondent No. 3 were pre-planned to facilitate recovery of dues of Respondent No. 2, and that the process was carried out for the benefit of Respondent No. 2 rather than for the resolution of the Corporate Debtor.
7. It is submitted that the creditors were not properly informed about the initiation of CIRP, resulting in the constitution of the Committee of Creditors consisting only of Respondent No. 2. The Applicant further submits that the physical assets and electronic records of the Corporate Debtor were taken over by the landlord due to non-payment of rent, making the accounts inaccessible, which was within the knowledge of Respondent Nos. 2 and 3. It is also contended that despite alleging non-cooperation from the erstwhile directors, the Resolution Professional proceeded to verify the claims of creditors.



8. The Applicant further submits that no Form G was issued inviting Expressions of Interest, no Information Memorandum was prepared, and no valuation of the tangible or intangible assets of the Corporate Debtor was undertaken. It is also submitted that despite the existence of statutory dues, including EPFO, the Committee of Creditors was constituted solely with Respondent No. 2 and that the minutes of meetings disclose that settlement or dissolution was contemplated, with dissolution pursued upon failure of settlement.
9. It is further submitted that, upon failure of settlement, Respondent No. 2 moved for early dissolution of the Corporate Debtor, focusing only on physical assets and disregarding intangible assets, and that Respondent No. 3 acted at its instance, Respondent No. 2 being unwilling to incur further CIRP costs and simultaneously pursuing personal insolvency proceedings against a promoter of the Corporate Debtor.
10. The Applicant submits that despite expressing readiness to submit a resolution plan and requesting issuance of Form G for inviting Expressions of Interest, no such invitation was issued and the process proceeded towards dissolution. It is further submitted that the intervention application filed by the Applicant in IA (IBC) No. 2205 of 2024 was disposed of as infructuous on the ground that the order of dissolution had already been pronounced.
11. The Applicant submits that it is incorrect to state that all the subsidiaries of the Corporate Debtor were shut down. According to the Applicant, upon inquiry it was found that the subsidiary, namely '*Tronx Motors Private Limited*', continues to remain an active company with subsisting shareholding.
12. The Applicant further submits that Respondent No. 3 relied upon certain judicial precedents to obtain an order of dissolution without completing the CIRP process. It is also contended that the existence



and value of intangible assets, including trademarks, goodwill, receivables, and investments in subsidiaries, were not properly examined.

13. The Applicant submits that the Committee of Creditors, comprising only Respondent No. 2, decided to proceed with dissolution without exploring the possibility of resolution or liquidation in accordance with the provisions of the Code. It is further alleged that the process was carried out in collusion, resulting in the dissolution of the Corporate Debtor despite the alleged existence of assets and business potential.

**Case of the Respondent No.2:**

14. It is submitted that upon initiation of CIRP, the Resolution Professional issued a public announcement dated 17.01.2024 inviting claims from creditors. Thereafter, the claims received were verified, the list of creditors was placed on record, and the Committee of Creditors was duly constituted.
15. It is further submitted that in the 4<sup>th</sup> meeting of the CoC held on 21.06.2024, the CoC, after noting that the Corporate Debtor had no tangible or intangible assets, no ongoing operations, and no prospects of revival, resolved to recommend dissolution instead of liquidation to avoid further costs and delay.
16. It is submitted that this Tribunal ordered dissolution of the Corporate Debtor and, consequently, dismissed IA (IBC) No. 2205 of 2024 filed by the Applicant in *M/s ZTE Corporation vs. M/s Smartron India Private Limited* vide order dated 05.11.2024, holding that the application was not maintainable and did not survive for adjudication.
17. The Learned Counsel for the Respondent No.2 has further placed their reliance upon the judgments in ***Vikas Dahiya v. Arrow Engineering Ltd. & Anr., Vikas Dahiya v. Arrow Engineering Ltd., (2022) ibclaw.in 577 NCLAT*** and ***K. Sashidhar v. Indian Overseas Bank***



**& Ors., [2019] ibclaw.in 08 SC** to contend that the commercial wisdom of the CoC and finality of orders passed under the Code cannot be lightly interfered with.

18. Further, it is contended that the present Application, which raises identical allegations of fraud and seeks recall of the admission order and allied reliefs, is a clear attempt to reopen and review the final order of this Tribunal dated 05.11.2024, is barred by the doctrine of res judicata, and amounts to re-agitation of issues already conclusively decided.

### **Case of the Respondent No.3**

19. Respondent No. 3, the erstwhile Resolution Professional, submits that the Committee of Creditors comprised (i) ZTE Corporation, China, with an admitted claim of Rs.10,39,40,070/- carrying 99.74% voting share, and (ii) Employees' State Insurance Corporation, Regional Office, Hyderabad, with an admitted claim of Rs.2,73,428/- carrying 0.26% voting share, aggregating to Rs.10,42,13,498/-.It is further submitted that though all members were duly notified of the meetings, ESIC did not participate in the CoC meetings.
20. It is submitted that EPFO was called upon to file its claim in the prescribed form, however, it failed to do so. Respondent No. 3 further submits that the ROC records were verified and the documents provided by the suspended Board were examined. It is also submitted that, due to non-cooperation of the suspended directors of the Corporate Debtor, an application under Section 19(2) of the Code was filed.
21. It is further submitted that, upon verification by the Resolution Professional, the allegation that the assets of the Corporate Debtor were in the custody of Mr. Sridhar Obilisetty, the landlord, was found to be incorrect.



22. It is submitted that no valuation was undertaken as no assets were identified, and that the Information Memorandum was duly prepared and shared with the Committee of Creditors.
23. It is submitted that the Committee of Creditors recorded that the Corporate Debtor had no realisable assets and that continuing the CIRP would only result in further costs. Accordingly, the Committee of Creditors decided to seek dissolution of the Corporate Debtor.
24. The Learned Counsel for the Respondent No.3 has further placed their reliance upon the judgments in, ***K. Sashidhar v. Indian Overseas Bank & Ors. [2019] ibclaw.in 08 SC***, and ***Piramal Capital and Housing Finance Limited v. 63 Moons Technologies Limited & Ors. (2025) ibclaw.in 120 SC*** wherein it has been held that such commercial decisions are not amenable to judicial interference except on limited statutory grounds.
25. In the aforesaid circumstances, it is respectfully submitted that the Respondent acted bona fide and strictly in accordance with the provisions of the Code and the applicable Regulations.

**REJOINDER TO THE COUNTER OF RESPONDENT NO.2:**

26. Reiterating the submissions made in the Application, the Applicant further submits that Respondent No.2, in its counter, has not addressed the substantive allegations raised herein and has instead confined its defence primarily to the plea of non-maintainability on the ground that an earlier application filed by the Applicant was dismissed by this Tribunal.
27. It is further clarified that the earlier application was not dismissed on merits but on the ground that the provision invoked therein did not permit a third party to maintain such proceedings, whereas the present Application has been filed under Section 65 of the Code, which permits an application by any person.



28. It is submitted that the order of dissolution overlooks the statutory mandate under the Code, and the Applicant further submits that such dissolution has caused prejudice to his interests as a prospective investor, thereby warranting examination by this Tribunal.

**REJOINDER TO THE COUNTER OF RESPONDENT NO.3:**

29. The Applicant submits that the dissolution of the Corporate Debtor was approved without following the mandatory procedure prescribed under the Code, and that admittedly no publication in Form-G was issued inviting Expressions of Interest.
30. The Applicant submits that the counter of the Respondent No.3 itself acknowledges that the Corporate Debtor held registered trademarks; however, no registered valuer was appointed to determine the fair value and liquidation value as required under law.
31. It is contended that the position that the Corporate Debtor had “no assets,” despite admitting the existence of trademarks, is inconsistent, as intellectual property constitutes an asset under the Code and required valuation prior to any decision on dissolution.
32. The Applicant further submits that he had expressed interest in submitting a resolution plan based on the existing trademarks, however, this fact was not brought to the notice of this Tribunal prior to the passing of the dissolution order. It is also contended that the Resolution Professional did not take actual possession of the premises and proceeded only on the basis of information allegedly obtained from the building manager.
33. The Applicant relies upon the principles laid down by the Hon’ble Supreme Court in **M.K. Rajagopalan v. Dr Periasamy Palani Gounder, (2023) ibclaw.in 60 SC**, **JSW Steel Ltd. v. Bhushan Power & Steel Ltd. (2025) ibclaw.in 388 SC**, and **Piramal Capital & Housing Finance Ltd. v. 63 Moons Technologies Ltd., (2025) ibclaw.in 120 SC** which affirm that while the commercial wisdom of the CoC is ordinarily respected, it must operate within the bounds of



the statutory framework and cannot override mandatory legal requirements.

**FINDINGS AND DECISION:**

34. We have heard Mr. VK Sajith, Learned Counsel for the Applicant, Mr. Rupesh Gupta, Learned Counsel for Respondent No.2, and Mr. VVSN Raju, Learned Counsel for Respondent No.3 and perused the record.
35. At the outset, we observe that the present Application is filed by the Applicant, who is admittedly an investor interested in acquiring the Corporate Debtor as a going concern. He is neither a Financial Creditor nor an Operational Creditor of the Corporate Debtor but claims to be an interested prospective resolution applicant. However, we are not inclined to going to delve into the issue of locus standi of the Applicant.
36. In this regard, we place our reliance on the ruling of the Hon'ble NCLAT in the case of **Anil Singh v. Srei Equipment Finance Ltd. and Anr., (2025) ibclaw.in 655 NCLAT**, wherein it was held that:

*“26. .... The Adjudicating Authority has not proceeded to consider Section 65 application, it has only observed that the Appellant has no locus, it being neither proper nor necessary party in Section 7 application. Insofar as, Section 7 proceedings are concerned, there can be no quarrel to the observation that an Intervenor, who may not be necessary party or proper party, cannot intervene, but in a case where prayer of the Applicant under Section 65 regarding pleading to initiation of CIRP with fraudulent and malicious intent, the Adjudicating Authority ought to have looked into the allegations carefully. The IBC clearly prohibits any malicious or fraudulent initiation of CIRP and when in an application, it has been brought into notice by the stakeholders, the said application deserves consideration on merits. Rejection of the application only on the ground that Applicant has no locus, is unsustainable.”*

37. In view of the above judgement, we hold that an application filed under Section 65 of the Code cannot be rejected solely on the ground that the Applicant is not a creditor of the Corporate Debtor. Accordingly, we proceed to examine the Application on merit.



38. We now examine the preliminary objection raised by Respondent No. 2 that the present Application is barred by the doctrine of *res judicata* in view of the disposal of an application bearing IA No. 2205 of 2024 filed by the Applicant herein while deciding the dissolution application IA(IBC)(Dis) 13 of 2024.
39. It is noted that IA (IBC) No. 2205 of 2024 was filed by the Applicant seeking permission to submit a resolution plan or to participate in the auction process in the event of liquidation. The same was dismissed by this Tribunal with the observation: “In the light of the orders passed in IA (IBC) (Dissolution) 13/2024, this matter cannot survive. Hence, this application is disposed of as not maintainable.”
40. From the above order, it is evident that the earlier application was disposed of solely on the ground that the dissolution order had already been passed and therefore the application could not survive. The said application was not adjudicated on merits. The present Application, on the other hand, invokes Section 65 of the Code alleging fraudulent and malicious initiation and conduct of the CIRP. In these circumstances, we are not inclined to examine the applicability of the doctrine of *res judicata* or the bar under Order II Rule 2 of the Code of Civil Procedure, 1908. Accordingly, we proceed to examine the allegations on merits.
41. Before going into the factual matrix of the case, it is pertinent to consider the scope of Section 65 of the Insolvency and Bankruptcy Code, 2016. For invoking Section 65, two essential conditions are required to be satisfied:
- (i) that the Corporate Insolvency Resolution Process or liquidation proceedings have been initiated; and
  - (ii) Such initiation should have been made with a fraudulently or with a malicious intention, i.e. for purposes other than insolvency resolution or liquidation of the corporate debtor



42. In the present case, the first condition stands satisfied as the CIRP of the Corporate Debtor was admittedly initiated pursuant to the admission of an application under Section 9 of the Code by this Tribunal.
43. The question that therefore falls for our consideration is whether the Corporate Insolvency Resolution Process was initiated merely as a recovery mechanism, as alleged by the Applicant, or whether the same was conducted in accordance with the provisions of the Code.
44. The Learned Counsel for the Applicant contends that Respondent No.2 invoked the CIRP solely for recovery of its dues and not with the objective of insolvency resolution. It is further submitted that that “settlement with ZTE or dissolution if settlement is made a withdrawal of the CIRP which discloses the dissolution was forced and mischievous”.
45. On perusal of the record, we observe that in the CoC meeting<sup>6</sup> held on 12.09.2024, at the 5<sup>th</sup> item, it was noted, that Mr. Santosh (suspended director of the corporate Debtor) evinced that they are interested in providing settlement plan. The Resolution Professional advised them to approach Respondent No.2 for settlement, and in the event of a successful settlement, the CIRP could be withdrawn in accordance with law.
46. In our considered view, the said observation cannot be construed to mean that the Corporate Debtor would necessarily be dissolved in the absence of settlement. Therefore, we are unable to accept the contention of the Applicant that the process was directed towards dissolution.
47. The Learned counsel for the Applicant, further submitted that the appointment of Respondent No.3 as Resolution Professional was pre-planned, that no Form-G inviting Expression of Interest was issued; that no proper valuation of alleged intangible assets such as trademarks and goodwill was undertaken, and that despite the

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<sup>6</sup> Page No. 43- 46 of the Petition



existence of assets, including trademarks and investments in a subsidiary namely *Tronx Motors Private Limited*, the Corporate Debtor was dissolved on the premise that it had no assets.

48. Per contra, Respondent No.3 submits that despite non-cooperation from the Suspended Directors site visits were conducted and information was gathered from available records. Upon such verification, no tangible assets were found except certain trademarks, which were either expired or nearing expiry and therefore had no realisable value. submitted that the Information Memorandum was prepared and shared with the Committee of Creditors and that no valuers were appointed as no realisable assets were found.
49. It is further submitted that the Committee of Creditors, after considering the material placed before it, concluded that revival of the Corporate Debtor was not feasible and that proceeding with liquidation would only entail further expenditure. Consequently, the CoC resolved to recommend dissolution of the Corporate Debtor.
50. We observe from the record that the Resolution Professional filed the dissolution application pursuant to the decision of the Committee of Creditors. In this regard, the Hon'ble Supreme Court in **Torrent Power Limited v. Ashish Arjunker Rathi & Others, 2026 INSC 206**, held that where the Resolution Professional acts on the instructions of the Committee of Creditors, such conduct cannot be characterised as a material irregularity. The same is extracted below:
- “8.1 Where the RP acts on the instructions of the CoC, such conduct cannot, by any stretch of imagination, be characterised as a “material irregularity” within the meaning of Section 61(3)(ii). To hold otherwise would be to conflate the statutorily distinct roles of the RP and the CoC and to indirectly subject decisions of the CoC to judicial review, contrary to the scheme of the IBC.”*
51. Therefore, we are of the considered view that the action of the Resolution Professional in filing the dissolution application pursuant



to the decision of the Committee of Creditors cannot be said to be irregular or contrary to the scheme of the Code.

52. We further observe that, except asserting the existence of certain assets, the Applicant has not placed any documentary material on record demonstrating the subsistence, enforceability or monetary value of such intangible assets.
53. Moreover, this Tribunal, while considering the dissolution application in IA (IBC) (Dissolution) No.13 of 2024, upon perusal of the material placed on record, including the certification of the Resolution Professional in Form-H and the financial information submitted before the Committee of Creditors opined that the Corporate Debtor had no realisable assets, allowed the dissolution of the Corporate Debtor under Section 54 of the Code.
54. It is settled law that proceedings under the Insolvency and Bankruptcy Code are summary in nature and that allegations under Section 65 cannot be sustained unless supported by evidence demonstrating fraudulent or malicious intent.
55. In this regard, we place our reliance on the judgment of the Hon'ble NCLAT in ***Monotrone Leasing Pvt. Ltd. v. PM Cold Storage Pvt. Ltd., Company Appeal (AT) (Insolvency) No. 99 of 2020***, wherein it was held that:

*“29 Section 65 of the Code provides for penal action for initiating Insolvency Resolution Process with a fraudulent or malicious intent or for any purpose other than the resolution. However, the same cannot be construed to mean that if a petition is filed under Section 7, 9 or 10 of the Code without any malicious or fraudulent intent, then also such a petition can be rejected by the Adjudicating Authority on the ground that the intent of the Applicant/Petitioner was not resolution for Corporate Insolvency Resolution Process. As the proceedings under IBC are summary in nature, it is difficult to determine the intent of the Applicant filing an application under Section 7, 9 or 10 of the Code unless shown explicitly by way of*



documentary evidence. This situation may arise in specific instances where a petition is filed under IBC specifically with a fraudulent or malicious intent.”

56. In view of the above discussion, we find that the Applicant has failed to place any material on record establishing that the initiation of the CIRP or the recommendation of dissolution was fraudulent or malicious within the meaning of Section 65 of the Code.

Accordingly, IA(IBC) 434 of 2025 in CP(IB) No. 75/9/HDB/2023 is **dismissed**.

Sd/-

**SANJAY PURI**  
**MEMBER (TECHNICAL)**

Sd/-

**RAJEEV BHARDWAJ**  
**MEMBER (JUDICIAL)**