

**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT-II)**

**IA. NO. 5545/ND/2021**

**IN**

**Company Petition No. (IB)- 794(ND)/2018**

**IN THE MATTER OF:**

**M/s InSynergy Supply Chain Solutions Pvt. Ltd.**

**... Applicant/  
Operational Creditor**

**Versus**

**M/s Easytech Global Pvt. Ltd.**

**... Respondent/  
Corporate Debtor**

**AND IN THE MATTER OF IA. NO. 5545/ND/2021:**

**Mr. Akhilesh Kumar Gupta**

(Liquidator for Easytech Global Pvt. Ltd.)  
LGF, A-16/9, Vasant Vihar,  
New Delhi-110057

**... Applicant/Liquidator**

**Versus**

**1. Mr. Gopal Kalra**

35B DDA Flats  
Masjid Moth Ph 1  
New Delhi-110048

**2. Mr. Ankit Mehra**

D-69, First Floor,  
Sector-2, Noida-201301

**3. Mr. Kundan Gupta**

**C/o Sunshine International**  
Shop No. 2, Khasra No. 670  
Village Bakoli, Delhi-110036

**... Respondents**

**Under: Section 66 of IBC 2016 r/w Rule 11 of NCLT Rules, 2016**

**Order Delivered on: 11.01.2024**

**CORAM:**

**SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)**

**SH. L. N. GUPTA, HON'BLE MEMBER (T)**

**PRESENT:**

**For the Liquidator** : Mr. Varun Sharma, Ms. Vanshika Gupta & Mr. Shivam Goel

**ORDER**

**PER: SH. ASHOK KUMAR BHARDWAJ, MEMBER (J)**

**IA-5545/2021**

The succinct facts stated in the application filed on behalf of the Liquidator qua the CD are: -

- (i) While discharging his duties, the Applicant came across certain transaction and entries qua the CD which were suspicious in nature. In the 5<sup>th</sup> meeting of the Committee of Creditors held on February 27, 2019, the Applicant identified such entries, necessitating the appointment of a Forensic Auditor to investigate and examine the transactions.
- (ii) The Applicant demonstrated and explained all the transactions/entries to the members of the CoC, with the help of bank statement, ledger account and tally data and pressed for the need to appoint a Forensic Auditor.
- (iii) Finally, M/s Ravi Rajan & Co., Chartered Accountants was appointed as a Forensic Auditor to carry the Forensic Audit qua the CD, based on its Financial Statements and other records. In the meantime, in terms of the order dated 03.04.2019, this Tribunal allowed the application for Liquidator of the Corporate Debtor.

- (iv) The Forensic Audit concluded the Forensic Audit qua the CD, for the period between October 10, 2016 to October 15, 2018 and submitted the final report on September 12, 2019. A copy of Forensic Audit Report dated 12.09.2019 is attached as Annexure A-6 to the application.
- (v) The scope of the Forensic Audit Report was to review financial transactions qua the CD for the review period to comprehend and decipher the nature of transaction, trend, transaction of substantial amount and contracting transactions, to review movement of unsecured loans, the sale/mortgage/transfer/alienation in any manner regarding the assets of the properties of the CD etc.
- (vi) After extensive review and analysis of the data/information/documents/explanation provided by the CD for the review period, the Forensic Auditor recorded findings on various issues and made elaborate observations in its report.
- (vii) With reference to the report submitted to it by the Forensic Auditor, the Applicant preferred an application viz. IA-1625 of 2019 dated 04.12.2019 under Section 43, 66 and 19 of IBC, 2016. Nevertheless, in the wake, of the judgment of Hon'ble Supreme Court in the matter of **Anuj Jain IRP for Jaypee Infratech Limited vs. Axis Bank Limited and Ors.** [Civil Appeal No. 8512-8527 of 2019 dated 26.02.2020], this Tribunal passed the order dated 27.08.2021 taking the view that the Avoidance Transactions referred to in Section 43 and 66 of the Code are different in nature, thus need to be dealt with in separate applications.

(viii) In the wake of the order dated 27.08.2021, the Applicant filed affidavit dated 27.09.2021, espousing that the IA-1625 of 2019 could be confined only to the relief sought under Section 43 of IBC, 2016 and other related provision of IBC, 2016. Thus, the present application could be preferred.

2. In para 20 of the application, the Applicant has brought to the fore that the Forensic Auditor in its detailed report canvassed that several unjustified, unexplained and suspicious LED Bulb trading transactions between the CD and the fake customers/vendors were depicted on the record, which resulted into a loss of Rs. 4,66,55,553/- to the CD. According to the Applicant, the Respondent No.1 viz. Mr. Gopal Kalra had wrongfully reversed several purchased as well as sales transaction of LED Bulbs by issuing fake and suspicious Credit and Debit notes to non-genuine parties. In terms of the observations made by the Forensic Auditors, most of the entities/parties with whom the aforesaid suspicious transactions were undertaken by the Respondent No.1 as shown in the books of accounts do not match and raised serious suspicion of illegal moving of money from the Corporate Debtor. Para 20 of the application in which such suspicious transaction had been referred to reads thus: -

**“20.** *That some of the key observations and findings as stated by the Forensic Auditor in his detailed report along with the observation of the Applicant (pertaining to fraudulent trading or wrongful trading under Section 66 of the Insolvency and Bankruptcy Code, 2016) are herein summarized below for the consideration and perusal of this Hon'ble Tribunal:*

**I. Fake Accounting Entries Causing Loss To The Company Worth 4.66 Cr. by way of suspicious and non-genuine transactions of LED Bulbs**

*That the Forensic Auditor during the audit uncovered several unjustified, unexplained and suspicious LED Bulb trading transactions between the Corporate Debtor and fake customers/vendors. That for the said transactions combined, the **Corporate Debtor incurred a loss of Rs. 4,66,55,553/- (Rupees Four Crore Sixty Six Lakh Fifty Five Thousand Five Hundred Fifty Three Only).***

*It is pertinent to mention that the Respondent No. 1 had wrongfully reversed several purchase as well as sale transactions of LED Bulbs by issuing fake and suspicious Credit and Debit Notes to non-genuine parties. It is further pertinent to mention that as per the comments of the Forensic Auditor, after conducting field investigation, most of the entities/ parties with whom the aforesaid suspicious transactions were undertaken by the Respondent No. 1 as shown in the Books of Accounts does not match and raise serious suspicion of illegally moving monies out of the Corporate Debtor.*

*A brief tabular representation of the aforesaid suspicious transactions along with the party wise transaction details and their reversal amounts as booked in the Corporate Debtor are herein given below for the reference of this Hon'ble Tribunal:*

Name of the suspicious and non-genuine party/entity	Reversed Purchase Transaction where fake and suspicious Debit Notes were issued (In Rs.)	Reversed Sale Transaction where fake and suspicious Credit Notes were issued (In Rs.)
S P Trading Co.		4,35,53,135/-
Garg Sales Corporation		2,92,32,897/-
B S Enterprise		3,15,86,720/-
K K Enterprises	1,11,76,632/-	
Satyam Traders	1,72,23,900/-	
Vidhata Sales Corp.	3,93,16,667/-	
Total	5,77,17,199/-	10,43,72,752/-
<b>Total Loss Incurred By The Corporate Debtor</b>		<b>4,66,55,553/-</b>

***i. SP Trading Co.***

*Reversed sale transaction to the tune of Rs. 4,35,53,135/- (Rupees Four Crore Thirty Five Lakh Fifty Three Thousand One Hundred Thirty Five Only) were carried out with this entity and upon field verification by the Forensic Auditor, in place of the captioned entity a shop which was being owned/ used by one Mr. Rajesh for the use of Iron and Steel products was found. Upon further verification, at the registered office, one Bhardwaj Family was found living. A True copy of the ledger highlighting the wrongful sale reversal transaction with S.P. Trading is attached herewith as **Annexure A-8** for the kind perusal of this Hon'ble Tribunal.*

### **Observations by the Forensic Auditor**

*“Form above field investigation it was observed that address of business as mentioned on balance confirmation and tally doesn't confirm that those companies are running business at same place”*

*[Page 45 of the Forensic Report]*

### **ii. Garg Sales Corporation**

*Reversed sale transaction to the tune of Rs. 2,92,32,897/- (Rupees Two Crore Ninety Two Lakh Thirty Two Thousand Eight Hundred Ninety Seven Only) were carried out with this entity and upon field verification by the Forensic Auditor, in place of the captioned entity a shop in the name of Rashmi Electricals was found running since 2004. Upon further verification the owner of Rashmi Electricals informed that this shop is only used by them and no one else. A True copy of the ledger highlighting the wrongful sale reversal transaction with Garg Sales Corporation is attached herewith as **Annexure A-9** for the kind perusal of this Hon'ble Tribunal.*

### **Observations by the Forensic Auditor**

*“During the field investigation of Garg Sales Corporation, Shop No. 1, Nandgram Road, Subhash Nagar, Ghazaibad, it was found that-*

- Rashmi Electricals is running business on this address since 2004.*
- The owner of shop revealed that this shop is only utilized by them with name & style as M/s Rashmi electrical since its incorporation not by Garg Sales Corporation.”*

*[Page 43 of the Forensic Report]*

**iii. B.S. Enterprise**

*Reversed sale transaction to the tune of Rs. 3,15,86,720/- (Rupees Three Crore Fifteen Lakh Eighty Six Thousand Seven Hundred Twenty Only) were carried out with this entity and upon field verification by the Forensic Auditor, in place of the captioned entity a locked warehouse was found. Upon further verification from the nearby people, it was found that the said warehouse belongs to one Jagannath Electricals. A True copy of the ledger highlighting the wrongful sale reversal transaction with B.S. Enterprise is attached herewith as **Annexure A-10** for the kind perusal of this Hon'ble Tribunal.*

**Observations by the Forensic Auditor**

*“while conducting the field investigation of Plot No. 305, Shinani Village Sihani Road, Ghaziabad, audit revealed that-*

- The plot no. 305 is being used for godown and it was shut-off on the day of investigation.*
- As per the detailed discussion with the nearby people of the plot no. 305, it was revealed that the said plot is being utilized by the Jaggannath electrical as godown for Led television. There is no such plot 305 with the name of B S Enterprises.*

*[Page 44 of the Forensic Report]*

**iv. K.K. Enterprise**

*Reversed purchase transaction to the tune of Rs. 1,11,76,632/- (Rupees One Crore Eleven Lakh Seventy Six Thousand Six Hundred Thirty Two Only) were carried out with this entity. A True copy of the ledger highlighting the wrongful purchase reversal transaction with K.K. Enterprise is attached herewith as **Annexure A-11** for the kind perusal of this Hon'ble Tribunal.*

**v. Satyam Traders**

*Reversed purchase transaction to the tune of Rs. 1,72,23,900/- (Rupees One Crore Seventy Two lakh Twenty Three Thousand Nine Hundred Only) were carried out with this entity and upon field verification by the Forensic Auditor, at the registered address of the captioned entity, instead of the captioned entity, a cycle shop in the name of Rehman Cycle was found. Upon further verification from the owner of the shop, it was found that he is ultimate owner and beneficiary of the shop since last 12 years and no other work apart from cycle work is being carried out here. A True copy of the ledger highlighting the wrongful purchase reversal transaction with Satyam Traders is attached herewith as **Annexure A-12** for the kind perusal of this Hon'ble Tribunal.*

**Observations by the Forensic Auditor**

*“During the field investigation of Satyam Traders, Shop No. 1, Tyagi Market, Ghuna, Ghaziabad, investigation team did not find shop with name of M/s Satyam Traders at the given address. A small cycle shop is running from aforementioned address with name of Rehman Cycle works. As per the detailed discussion with Rehman Cycle works he revealed he is the ultimate beneficiary and owner of the Shop for the last 12 years and there is no other business activity was conducted by anyone apart from cycle works.”*

*[Page 42 of the Forensic Auditor's Report]*

**vi. Vidhata Sales Corp.**

*Reversed purchase transaction to the tune of Rs. 3,93,16,667/- (Rupees Three Crore Ninety Three Lakh Sixteen Thousand Six Hundred Sixty Seven Only) were carried out with this entity. A True copy of the ledger*

highlighting the wrongful purchase reversal transaction with Vidhata Sales Corp. is attached herewith as **Annexure A-13** for the kind perusal of this Hon'ble Tribunal.

That it is stated for the consideration of this Hon'ble Tribunal that all the aforementioned suspicious and non genuine sale/purchase transaction of LED Bulbs along with the ones as stated by the Forensic Auditor in section 4.4 of the Forensic Reports seems to be siphoning of funds by the Respondent No. 1 using fake and forged vendor bills.

The Respondent No. 1 used fake accounting entries by issuing wrongful credit notes against illegitimate reversed sale transactions of the LED Bulbs and wrongful debit notes against illegitimate reversed purchase transactions of LED Bulbs using fake and forged vendor bills to have wrongful personal gains and wrongful loss to the Corporate Debtor.

**Observations by the Forensic Auditor**

“Considering the above facts, the turnover of LED Bulbs does not appear to be genuine. An analysis of the fund movement in bank on account of this turnover shows that no cash loss seems to have been caused to the Company by virtue of these transactions. On netting of the purchase payments and sale realisations, a sum of Rs. 113,220,167/-has been received by the Company. However, considering all the sale/purchase and debit/credit notes transactions of the LED Business there seems to have caused a Notional Loss of Rs.3.18 crores to the CD. The net effect of the same is shown as below:

Funds Flow		Notional Loss		
Bank Receipts	Bank Payments	Op. Stock	Purchases	Sales
47,658,212	(34,438,046)	552,600	29,279,400	1,964,302
<b>Net Effect</b>	<b>+ 13,220,167</b>		<b>(-) (31,796,302)</b>	

“It is to be noted that the stock audit report does not highlight any stock/receivables specifically relating to the LED business.”

*[Observation as noted by the Forensic Auditor on Page no. 50 of the Forensic Auditor's Report]*

**II. Siphoning of Funds of Rs. 2.47 Cr. By Way Of Showing Fake Purchases In The Books Of Accounts Of The Corporate Debtor**

*That as per the Books of Accounts of the Corporate Debtor, Respondent No. 1 has paid the following amounts to the below mentioned entities under the disguise of a purchase transaction whereas in reality the transaction is nothing but a false entry used for siphoning of funds:*

<b>S.NO</b>	<b>Name of the entity</b>	<b>Amount (in Rs.)</b>
1	Jaggannath Techno Engineers Private Limited	1,52,75,000/-
2	Satyam Traders	5,01,425/-
3	K.K. Enterprise	89,09,930/-

*i. Jagannath Techno Engineers Private Limited*

*That as per the Books of Accounts of the of the Corporate Debtor, an amount of Rs. 1,52,75,000 (Rupees One Crore Fifty Two Lakh Seventy Five Thousand Only) was paid to this entity between April 1, 2016 to March 31, 2017 on account of suspicious and fake purchases of LED Bulbs from the Corporate Debtor. That it is submitted for the consideration of this Hon'ble Tribunal that as per the information available on the portal of the Ministry of Corporate Affairs, M/s Jagannath Techno Engineers Pvt Ltd is based at Faridabad and in engaged in the manufacturing of Grill, Safety Door, Fabrication Jail Works, Safety Doors, Rolling Shutters and Sheet Metal components and Agriculture Tools. That as per a telephonic conversation between the Forensic Auditor*

and Mr. Dalip Kumar, Director of the Company, it was revealed that the aforesaid company did not deal in electronic items and dealt with aforementioned works only. A True copy of the ledger highlighting the fake purchase transactions with Jagannath Techno Engineers is attached herewith as **Annexure A-14** for the kind perusal of this Hon'ble Tribunal. Further, comments of the Forensic Auditor can be referred from Pg. 48 of the Forensic Audit report.

ii. Satyam Traders

That as per the Books of Accounts of the of the Corporate Debtor, an amount of Rs. 5,01,425 (Rupees Five Lakh One Thousand Four Hundred Twenty Five Only) was paid to this entity on March 30, 2017 on account of suspicious and fake purchases of LED Bulbs from the Corporate Debtor. It is reiterated for the consideration of this Hon'ble Tribunal that upon field verification at the registered address of this entity, a cycle shop in the name of Rehman Cycle was found which is running since last 12 years and no other work apart from cycle work is being carried out there. Please refer Annexure A-14 for reference. Further, the Forensic Auditor's comments on the same can be referred from page 42 of the Forensic Auditor's Report.

iii. K.K. Enterprise

That as per the Books of Accounts of the of the Corporate Debtor, an amount of Rs. 89,09,930 (Rupees Eighty Nine Lakh Nine Thousand Nine Hundred Thirty Only) was paid to this entity between April 1, 2016 to March 30, 2017 on account of suspicious and fake purchases of LED Bulbs from the Corporate Debtor. Please refer Annexure A-13 for reference.

**III. Withdrawals/ wrongful transactions by Mr. Ankit Mehra i.e. Respondent No. 2**

- i. That Respondent No. 2 served as an additional Director of the Corporate Debtor from December 3, 2016 to March 31, 2017. That it is necessary to highlight that Respondent No. 2 is a related party of the Corporate Debtor by virtue of being the ex-Director. That the Forensic Auditor has unearthed that an amount of Rs. 2,00,000/- (Rupees Two Lacs Only) was paid to the Respondent No. 2 as 'Director's Remuneration' on account of salary for the month of April 2017- May 2017, however, no payments of salary was ever made to the Respondent No. 2 on account of director's remuneration during his actual tenure of employment as a additional director i.e. from December 3, 2016 to March 31, 2017. That it is further highlighted for the consideration of this Hon'ble Tribunal that even though the Respondent No. 2 had resigned from the directorship of the Corporate Debtor w.e.f. March 2017, he was paid an amount of Rs. 2,00,000/- (Rupees Two Lakh Only) as salary for the month of April, 2017.

**Observations by the Forensic Auditor on Salary Payments**

*"INR 2 Lakhs payment made to Mr. Ankit Mehra for the period after his resignation cannot be construed as salary payments and therefore appears to be detrimental to interest of the CD. The transaction may therefore be considered for classification under section 66 of the I&B Code, 2016."*

*[Observation as noted by the Forensic Auditor on Page no. 29 of the Forensic Auditor's Report]*

**ii.** That the Forensic Auditor further bring to light that an amount of Rs. 8,00,000/- (Rupees Eight Lacs Only) was paid to the Respondent No. 2 as Imprest' in the months of January, February, March & April of 2017 which was outstanding as on the commencement of the insolvency date. An extract of the Books of Accounts showing the aforesaid imprest outstanding is herein given below for the perusal of this Hon'ble Tribunal:

**EASYTECH GLOBAL PVT LTD**  
**Ankit Mehra-Imprest A/c**  
 Ledger Account

Date	Particulars	Vch Type	Vch No.	Debit	Credit
02-01-2017	Cr ICICI Bank New A/c No. 081505000572 Being Issued Cheque No. 000859, Dt. 02-01-2017.	Payment HO	Ho\15-16\01268	200000.00	
02-02-2017	Cr ICICI Bank New A/c No. 081505000572 Being Chq No. 000919.	Payment HO	Ho\15-16\01379	200000.00	
03-03-2017	Cr ICICI Bank New A/c No. 081505000572 Being Chq. No. 000995.	Payment HO	Ho\15-16\01511	200000.00	
04-04-2017	Cr IOB A/C No.01920200005098 Being Chq. Ford No. 319079.	Payment	18	200000.00	
				<b>800000.00</b>	

It has been highlighted by the Forensic Auditor that Respondent No. 1 had accepted the fact that the aforesaid amount of Rs. 8,00,000/- (Rupees Eight Lacs Only) was to be recovered from the Respondent No. 2 in the 4th meeting of Committee of Creditors dated 8th February 2019. However, to the surprise of the Forensic Auditor as well as the Applicant, Respondent No. 1, vide its mail dated March 30, 2019, negated his comment and stated that the alleged amount was paid to Respondent No. 2 on account of Salary. It is further pertinent to mention that even if the amount so paid was in furtherance to respondent No. 2's salary, there is no

*record of any salary paid as per the audited books of accounts of the Corporate Debtor.*

*Observations by the Forensic Auditor on Imprest Payments*

*“Based on various communications between RP and Mr. Ankit Mehra, Mr. Ankit Mehra confirmed that the amount paid to him is salaries, which he has received from CD during his tenure....However the audit books of accounts do not reflect this payment as salary to Director. It may also be noted that the management also has furnished an appointment letter issued to Mr. Ankit Mehra which states his salary as Rs. 2,00,000 per month which matches with the 4 month payment of Rs. 8,00,000 recorded as imprest in the books. However no TDS was deducted from the purported salary payment and neither we could find a board resolution in support of the purported salary payment. Further in the minutes of CoC meeting (Para No.8), Mr Respondent No. 1 accepted that amounts receivable from the related parties are recoverable. Considering the above facts, there is lack of clarity between the audited books of accounts and the appointment letter submitted by the management in relation to the aforementioned transaction. If one would solely rely on the books of accounts and ignore the supporting documents and confirmation provided by the management, this transaction appears to be fraudulent in terms of Section 66 The I&B Code 2016, however if the other documents and confirmations are considered genuine, this transaction appears to be Salary Payment, done in the ordinary course of business which is incorrectly recorded in the books of accounts...However,*

*these payments are to be recoverable from him as agreed by Mr. Gopal Kalra in COC..”*

*[Observation as noted by the Forensic Auditor on Page no. 28-29 of the Forensic Auditor's Report)*

**IV. Fraudulent And Suspicious Transaction With One Mr. Kundan Gupta i.e. Respondent No. 3 of Rs. 32.78 Lakhs.**

*That the Forensic Auditor while reviewing the statutory records of the Corporate Debtor during the Forensic Audit found that an amount of Rs. 32,78,551 (Rupees Thirty Two Lakh Seventy Eight Thousand Five Hundred Fifty One Only) was recoverable from Mr. Kundan Gupta against a sale made to him on October 29, 2017. It was also found that no GST invoice reference details were mentioned in the Books of Accounts for the transaction that was undertaken by the Corporate Debtor. It is pertinent to highlight that before the Forensic Auditor, the Applicant himself in his capacity as the Resolution Professional of the Corporate Debtor, approached the Respondent No. 1 to procure necessary details of the said sale as well as relevant outstanding payment follow-ups by him for recovering the outstanding payment from Mr. Kundan before the commencement of the insolvency. Upon enquiring on the contact details (of Mr. Kundan) provided by the Respondent No. 1, one Mr. Vishal responded and vide email dated April 30, 2019 denied all the claims of any outstanding amount towards any sale made by the Corporate Debtor. However, to the surprise of the Applicant Mr. Vishal vide his letter dated May 29, 2019 which was written on behalf of Mr. Kundan Gupta, admitted that due to certain confusion he denied knowing Mr. Kundan earlier. It is pertinent to mention that in the same letter, Mr. Vishal confirmed that a purchase*

transaction was made with the Corporate Debtor, however, informed the Applicant that the payment for the goods sold sale was always conditional on the sale of goods in the market. Mr. Vishal while denying any liability of payment, offered to return the so called alleged stock that was sold to Mr. Kundan almost two years back. True copy of the email communication between the Applicant and Mr. Vishal is attached herewith as **Annexure A-15** for the find perusal of this Hon'ble Tribunal. A true copy of the letter dated May 29, 2019 sent by Mr. Vishal is attached herewith as **Annexure A-16** for the kind perusal of this Hon'ble Tribunal. It is stated for the It is stated for the consideration of this Hon'ble Tribunal that this transaction on face of it looks fraudulent and does not inspire confidence in believing that same was transaction in the due course of business.

**V. De-Valuation/ Writing Off Of Inventories & Various Assets By The Corporate Debtor**

That as per the contents of Section 4.5 of the Forensic Audit Report, the Forensic Auditor while conducting the Forensic Audit has found that the Respondent No. 1 being the management of the Corporate Debtor devalued its inventory from 2.59 Cr. (as on the insolvency commencement date) to 1.46 Cr. by adjusting the profit for the financial year 2018 in the audited financial statement without considering the effect of the same on the books of accounts. It is further pertinent to mention that to the surprise of the Applicant, when the aforesaid de-valued inventory was revalued by the registered valuers as appointed by the Resolution Professional as per the provisions of the Insolvency and Bankruptcy Code, 2016, following were the valuations:

- a. Tech Mech International Private Limited valued the stock at Rs. 15,68, 918/- (Rupees Fifteen Lakh Sixty Eight Thousand Nine Hundred Eighteen Only) &*
- b. Engineers Consortium valued the stock at Rs. 15,00,000/- (Rupees Fifteen Lakh)*

*True copies of the aforementioned valuation reports are attached with this application as **Annexure A-17 (Colly)** for the kind perusals of the Hon'ble Tribunal. It is further pertinent to mention that Corporate Debtor was not maintaining proper statutory records. The comments of the Forensic Auditor can be referred at page 51 of the Forensic Auditor's report."*

3. It is also the case of the Applicant that the Respondent No. 4 indulged in falsification of books of accounts and omitting material statements relating to the affairs of the CD wilfully. As per the Forensic Audit Report, the Corporate Debtor had submitted various stock statements at regular intervals to lenders in compliance of the sanction terms of the working capital limit. The report unearthed that they were noted differences in balances of stocks, receivables and payables as shown by the Corporate Debtor in stock statements and as shown in the books of accounts. Each of the balance had shown huge difference and drawing were highly inflated. The observation by the Forensic Auditor as reproduced in para 21 of the application reads thus:

***“21.** That apart from the aforesaid, the Respondent No 1 was indulged in falsification of books of accounts of the Corporate Debtor and material and willful omissions from the statements relating to affairs of Corporate Debtor. It is stated for the consideration of this Hon'ble Tribunal that it was noted by the Forensic Auditor that the Corporate Debtor had submitted*

*various stock statements at regular intervals to lenders in compliance of the sanction terms of the working capital limits. The Forensic Auditor in his report unearthed that there were noted differences in balances of stocks, receivables and payables as shown by the Corporate Debtor in stock statements and as shown in the books of accounts. It is pertinent to mention that each of the balance as shown had huge difference and the drawing limit were highly inflated as per the stock statements submitted to the lenders.*

**Observations by the Forensic Auditor**

*“...Since proper records of inventories were not maintained by company in Tally therefore difference in balances of stocks as per BOA (tally) and stock statements cannot be commented upon. Further, reasons of differences in receivables and payables are not provided by Director (Power Suspended) between BOA and stock statement therefore it may be inferred that stock statements submitted to lenders are not prepared in line with balances as appearing in BOA.....”*

*“...Even after considering the claims of adjustments regarding creditors in DP calculations, the mismatch still persists and therefore the conclusion of the observation mentioned above remains unchanged....”*

*[Observation as noted by the Forensic Auditor on Page no. 65 of the Forensic Auditor's Report]*

4. As can be seen from the order dated 13.04.2023, the proceedings qua the Respondent Nos. 2 and 3 could be set ex-parte and despite the opportunities the Respondent No. 1 had not uploaded any reply on DMS/e-portal of this Tribunal. The order reads thus: -

**IA-5545/2021:** Respondent Nos. 2 & 3 have already been proceeded ex-parte. As can be seen from the order dated 06.12.2022, on the said date, the Ld. Counsel for Respondent No. 1 submitted that his reply has already been filed, but we could not find the same on the DMS and granted him a last opportunity to ensure uploading of the same on the DMS within 3 days. In the said order, it was made clear that in the event of his failure to upload the reply on DMS within the given time, the right to file the reply would stand closed. The position was in no way different on 10.01.2023 & 30.01.2023.

Today again, Ld. Counsel appearing for the Respondent No. 1 espoused that he could file the reply on 08.04.2023, but the same is not yet reflected on the DMS. We are unable to appreciate and comprehend the attitude and approach of the Respondent. By way of sheer indulgence, the request made by the Ld. Counsel for the Respondent No. 1 to upload the reply within a week on DMS is accepted, subject to payment of the cost of Rs. 50,000/- to be deposited in the Prime Minister's Relief Fund. The receipt of payment of cost should be uploaded on the DMS/record and is a condition precedent.

List on 18.05.2023.

5. Finally, we heard the arguments qua the IA on 05.09.2023 and reserved the orders. Parties were given liberty to file their respective written submissions. In the written synopsis filed by it, the Respondent No. 1 raised the following contentions: -

- (a) In terms of the view taken by the Hon'ble NCLAT in the judgments in Amardeep Singh Bhatia v. Abhishek Nagori [Comp App (AT) (Insolvency) No 671 of 2020] and Thomas George v. K Easwara Pillai [Comp App (AT) (CH) (Insolvency) No 293 of 2021] inter alia, there is no lookback period specified regarding fraudulent transaction, thus the Forensic Auditor was not justified in confining the Audit only to the period from 16.10.2016 to 15.10.2018.
- (b) As per the Audit Report, there was only a **“notional loss”** of Rs. 3.19 Crore, caused to the CD and there are no allegations of siphoning off the funds, thus the transaction cannot be described as fraudulent one.

- (c) On netting of the purchase payments and sale realisations a sum of Rs. 1,32,30,167/- could be received by the company (CD). In the wake of the inflow cash into the CD and there being no allegation of siphoning off the funds, the transaction in question cannot be categorised as fraudulent.
- (d) A glance at the figure and ledgers from FY 15-16 would show that the Corporate Debtor sold materials worth Rs. 542.27 Lacs and made a gross profit of Rs. 375.54 Lacs. During FY 16-17 the material worth was Rs. 665.58 Lacs with profit of Rs. 31.59 Lacs. It was only in FY 17-18 that some material sold was returned to the Corporate Debtor which was further returned to the parties who supplied the same to the CD in first place thereby ensuring that there was no loss to the CD. In the overall business of LED transactions, the CD had made net profit of Rs. 83.3 Lacs and had a net inflow of Rs. 146.20 Lacs. Nevertheless, in FY 17-18, the CD had loss of Rs. 3,21,83,646/-.

6. We heard the counsels for the parties and perused the record. As far as the plea regarding lookback period espoused on behalf of the Respondent No. 1 is concerned, nothing turns on the same. In the garb of such plea, the Respondent No. 1 could try to espouse that if the Forensic Auditor could take into account the period beyond two years, it could have arrived at the conclusion that instead of making the loss, the CD had made an overall profit of Rs. 83,30,125/- from the LED transactions. The plea is misconceived. The object of Section 66 of IBC, 2016, is not to see as to whether the CD made profit or loss. While examining an application, what this Adjudicating

Authority need to see is that whether before the insolvency commencement date, the director or partner knew or ought to have known that there was no reasonable prospect of avoiding commencement of CIRP in respect of CD and such director or partner did not exercise due diligence in minimising the potential loss to the Creditors of the CD. As can be seen from para 7 of the written synopsis of the Respondent, it is an admission on behalf of the CD that when till FY 16-17, it was making profit, for FY 17-18 it made loss of Rs. 3,21,83,646/-. Apparently, it so happened when CIRP was to commence on 04.10.2018. The shoddy transactions have already been mentioned by the Applicant in para 20 of the application (supra). Para 7 of the synopsis reads thus: -

*“7. That the Liquidator insists on relying on ledgers only for FY 16-17 and claiming fraud on a “notional loss” which is impermissible in law. That only a glance at figures and ledgers from FY 15-16 would show that the Corporate Debtor sold materials worth Rs. 542.27 Lacs and made a gross profit of Rs. 375.54 lacs. That during FY 16-17 material worth Rs. 665.58 Lacs with profit of Rs. 31.59 Lacs. It was only in FY 17-18 that some material sold was returned to the Corporate Debtor which was returned further to the parties who supplied to the CD in the first place thereby ensuring no loss to the CD. In the overall business of LED Transactions, the CD has made net profit of Rs 83.3 Lacs and had a net inflow of Rs 146.20 lacs. [refer pg 200 of Annexure A6 of the IA]. The CD had a net profit in FY 15-16 of Rs. 3,73,54,360/- and of Rs. 31,59,412/- in FY 16-17 and suffered a loss of Rs. 3,21,83,646/- in FY 17-18 thereby giving the CD an overall net profit of Rs. 83,30,125/- from the LED transactions. Therefore, there is nothing suggesting that the transactions were fraudulent*

*and if the CD made a net profit there would be no victim of this fraud.”*

7. It is also the plea raised by the Respondent No. 1 that the CD did not resort to any siphoning off its funds. It is apparent from the provisions of Section 66 of IBC, 2016, that the siphoning off the funds by the CD is not one of the essences of the fraudulent transaction. What is the requirement of a transaction to be as fraudulent is that precipitating commencement of CIRP, the director or partners of the CD do not exercise due diligence in minimising the potential loss to the Creditors of the CD. In the present case, apparently, the Respondents could not be diligent enough qua the business transaction of the CD and the Corporate Debtor suffered loss of Rs. 3,73,54,316/- during FY 17-18.

8. Regarding the profit being made by the CD during FY 15-16 and 16-17, we are of the considered view that in examining the application regarding fraudulent transaction, this Tribunal is not supposed to see the profit made by the CD during past period. What is to be seen by us is that before insolvency commencement date i.e. 04.10.2018 during FY 17-18, the Respondents were not diligent enough to minimise the potential loss to the Creditors. It would also be not gainsaid that the fraudulent transaction referred to in Section 66 of IBC, 2016, need not to fulfil the essence of culpable fraud. Such fraudulent transaction does not invite any punishment, but only make the Respondents liable to contribute to the assets/ CIRP account of CD. However, after such contribution being made, those who are beneficiary of fraudulent transaction may stake claim before the Liquidator who will give

the priority of the beneficiary of the fraudulent transaction after all other debts owed by the Corporate Debtor.

9. We glanced through the Forensic Audit Report enclosed with the application. Clause 4.4 of the Report referred to sceptical LED Bulb transactions and indicate that a loss of 3.19 could be generated on account of LED transactions. The clause 4.4 of the report reproduced reads thus: -

#### 4.4 Suspicious Led Bulbs Trading Transactions

- i. Details of trading activities related to Led Bulb recorded in Books of Accounts along with total trading activities in FY 2016-17 are given below:

**Table 1: Details of trading activities during FY 16-17 (figures in INR Crores)**

Nature Transactions	Trading Purchases	Trading Sales
LED bulb	9.33	9.88
Total	18.28	21.41
Percentage	51 %	46 %
<b>Total</b>	<b>9.33</b>	<b>9.88</b>

- ii. Entities from whom the purchase transactions (51% of the trading purchases –Led bulb i.e. INR 9.33 Crores out of total purchase INR 18.28 Crores) were undertaken in FY 2016-17 are mentioned below :
- iii. Entities to whom sales transactions of Led Bulb(46% of the trading sales i.e. 9.88 Crores out of the total sales INR 21.41 Crores) were undertaken in FY 2016-17 are mentioned below :

Entity Name	Opening Balance	Sales	Amount received as per bank books	Credit Note	Other Adjustment	Closing Balance
B S Enterprises	2.30	2.82	1.97	3.03	0.12	0.00
Garg Sales Corporation	1.12	3.58	1.78	2.80	0.12	0.00
S P Trading Co	1.99	3.36	1.00	4.23	0.12	0.00
Summer Impex	0.00	0.10	0.11	0.00	0.00	0.10
<b>Total</b>	<b>5.41</b>	<b>9.86</b>	<b>4.89</b>	<b>10.06</b>	<b>0.36</b>	<b>0.4</b>

- iv. After adjustment of debit notes and credit notes, during 'Review Period' a notional loss of Rs 3.19 Core seems to have got generated on account of the LED Turnover, which is depicted as below:

Party Name	Purchase	Sales
B S Enterprises		(2,118,170.00)
Garg Sales Corporation		7,820,703.00
Jaggannath Technoengineers Pvt. Ltd.	15,275,000.00	
K K Enterprises	6,358,938.00	
S P Trading Co		(8,671,835.00)
Satyam Traders	(1,729,356.50)	
Summer Impex		1,005,000.00
Vidhata Sales Corp	9,374,818.00	
<b>Total</b>	<b>29,279,399.50</b>	<b>(1,964,302.00)</b>
Opening Stock		552,600.00
Closing Stock		-
<b>Profit</b>		<b>(31,796,301.50)</b>

v. **Credit note & Debit Note issued to nullify outstanding balance:**

In FY 2016-17 and 2017-18, Creditor and debtors are nullified through the entry of Debit note INR 6.4 Cr and credit note INR 10 Cr respectively. Supporting documents are required.

**Details of Debit Note raised during the period**

Date	Particulars	Vch Type	Vch No.	Credit
30/11/2016	Vidhata Sales Corp	Debit Note UP	1	12240000.00
31/12/2016	Vidhata Sales Corp	Debit Note UP	2	14400000.00
28/02/2017	Vidhata Sales Corp	Debit Note UP	3	4320000.00
10/07/2017	Vidhata Sales Corp	Debit Note	2	3423220.00
10/07/2017	K K Enterprises	Debit Note	7	7077165.00
10/07/2017	Satyam Traders	Debit Note	4	3626803.00
05/09/2017	Vidhata Sales Corp	Debit Note	5	3476377.00
05/09/2017	K K Enterprises	Debit Note	6	3932496.00
05/09/2017	Satyam Traders	Debit Note	7	3643120.00
18/09/2017	Satyam Traders	Debit Note	8	8713977.50
18/09/2017	Vidhata Sales Corp	Debit Note	9	257070.00
18/09/2017	K K Enterprises	Debit Note	10	2171771.00
	<b>Total</b>			<b>64,117,199.50</b>

**Details of Credit Note raised during the period:**

Date	Particulars	Vch Type	Vch No.	Credit
30/11/2016	S P Trading Co	Credit Note UP	EGPL\UP\CN\15-16\020	7,500,000.00
30/11/2016	Garg Sales Corporation	Credit Note UP	EGPL\UP\CN\15-16\021	5,250,000.00
31/12/2016	B S Enterprises	Credit Note UP	EGPL\UP\CN\15-16\022	7,500,000.00
31/12/2016	S P Trading Co	Credit Note UP	EGPL\UP\CN\15-16\023	7,500,000.00
28/02/2017	S P Trading Co	Credit Note UP	EGPL\UP\CN\15-16\024	4,500,000.00
05/07/2017	Garg Sales Corporation	Credit Note	18	22,782,897.00
30/08/2017	B S Enterprises	Credit Note	19	22,886,720.00
12/09/2017	S P Trading Co	Credit Note	20	22,853,135.00
	<b>Total</b>			<b>100,772,752.00</b>

vi. **Payments to Starorama Properties.**

**Transaction Details**

Noted payments of INR 26.50 Lakhs were made by CD to M/s Starorama Properties P Ltd thru IOB bank account '1920200005098. Extract of Bank account statement is as below-

Txn date	Value date	Txn Part	Loca tion	Che q no.	Withdrawal	De posit	Balance as per Bank Statement
12-Jan-17	1/12/2017	NEFT PMT IOBAN17012582582 211 STARORAMA PROPERTIES			1,000,000		73249572.48
12-Jan-17	1/12/2017	NEFT PMT IOBAN17012586873 211 STARORAMA PROPERTIES			950,000		74199601.74
12-Jan-17	1/12/2017	NEFT PMT IOBAN17012597757 211 STARORAMA PROPERTIES			700,000		-748996.31
					2,650,000		

**Findings**

- 'Starorama Properties' is entity related to CD as evident with records available with MCA by way of fact that directors of Starorama properties are relative of erstwhile director of CD, Mr. Ankit Mehra.
- As per BOA, the said payments of INR 26.50 Lakhs was accounted in the name of M/s K.K enterprises with whom led bulb purchase transactions are doubtful. UTR details mentioned in narration available in tally entry is also same as per bank.

Extract of BOA is as below-

EASYTECH GLOBAL PVT LTD					
K K Enterprises					
Ledger Account					
C-261, Multani Pura,					
Modi Nagar, U.P.					
1-Apr-2016 to 31-Mar-2017					
Date		Particulars	Vch Type	Vch No.	Debit
12-01-2017	Cr	Indian Overseas Bank-A/c No.01920200005098 <i>Being amount transfer to Starorama, IOBAN17012597757.</i>	Payment HO	Ho\15-16\01321	700000.00
12-01-2017	Cr	Indian Overseas Bank-A/c No.01920200005098 <i>Being amount transfer to Starorama, IOBAN17012582582.</i>	Payment HO	Ho\15-16\01322	1000000.00
12-01-2017	Cr	Indian Overseas Bank-A/c No.01920200005098 <i>Being amount transfer to Starorama, IOBAN17012586873.</i>	Payment HO	Ho\15-16\01323	950000.00

**Documents/details/information/clarifications sought from CD**

- Reasons for making payments to Starorama-a related party and accounted in the name of K K enterprises.

**Document Received**

- Purchase invoices of LED Purchase from K K Enterprises
- Ledger balance confirmation from K K Enterprises. Refer **Annexure 3**

**Management Comments**

Confirmation of balance is there from KK enterprises, this could have been done on other director instruction in discussion with Starorama.

vii. **Transactions with BS Enterprises**

**Transaction Details**

Noted that as per BOA, Rs 19 Lakhs was received from B S Enterprises against sales of Led bulbs by CD. Extract of BOA is as below-

**EASYTECH GLOBAL PVT LTD****B S Enterprises**

Ledger Account

Plot No. 305, Shinani Village Sihani Road,  
Chazlabad.

1-Jan-2017 to 31-Jan-2017

Date	Particulars	Vch Type	Vch No.	Debit	Credit
10-01-2017	Dr Indian Overseas Bank-A/c No.01920200005098 <i>Being Amount Received From NEFT. Dt. 10.01.2017</i>	Receipt HO	HO\15-16\0519		500000.00
10-01-2017	Dr Indian Overseas Bank-A/c No.01920200005098 <i>Being Amount Received From NEFT. Dt. 10.01.2017</i>	Receipt HO	HO\15-16\0520		498000.00
10-01-2017	Dr Indian Overseas Bank-A/c No.01920200005098 <i>Being Amount Received From NEFT. Dt. 10.01.2017</i>	Receipt HO	HO\15-16\0521		499000.00
10-01-2017	Dr Indian Overseas Bank-A/c No.01920200005098 <i>Being Amount Received From NEFT. Dt. 10.01.2017</i>	Receipt HO	HO\15-16\0522		403000.00
					1900000.00

**Findings**

As per bank account Indian Overseas Bank-A/c No.01920200005098 of CD, the above amounts were received from another party- M/s Summer Impex. Extract of bank statement is as below-

Txn date	Value date	Txn Part	Cheq no.	Withdrawal	Deposit	Balance as per Bank Statement
10-Jan-17	1/10/2017	Cr. For RTGS ICICH17010629485 SUMMER IMPEX			500000.00	- 74022513.96
10-Jan-17	1/10/2017	Cr. For RTGS ICICH17010630145 SUMMER IMPEX			498000.00	- 73524513.96
10-Jan-17	1/10/2017	Cr. For RTGS ICICH17010629740 SUMMER IMPEX			499000.00	- 73025513.96
10-Jan-17	1/10/2017	Cr. For RTGS ICICH17010632780 SUMMER IMPEX			403000.00	- 72622513.96

**Further Documents/details/information/clarifications sought from CD**

- Supporting documents for sales of led bulb stocks to B S enterprises.
- Reasons for receiving payments from Summer Impex and accounted in the name of B S Enterprises.
- Confirmation from both parties for receiving on behalf payments.

**Documents Received**

- Ledger balance confirmation from B S Enterprises (Refer Annexure 3)

**viii. Purchase invoices not recorded in books of accounts**

During verification of several documents in the possession with RP, noted that few purchase invoices of LED bulbs form different parties are not recorded in books of accounts. Details of invoices are as below-

Invoice No	Date	Name of party	Quantity	Rate	Amount (Rs)
141	9/6/2016	Satyam Traders	8,050	52	418,600
139	9/6/2016	Vidhata Sales	8,000	50	400,000
145	9/10/2016	Vidhata Sales	8,000	50	400,000
148	9/13/2016	Vidhata Sales	13,500	50	675,000
153	9/15/2016	KK Enterprises	8,000	52	416,000
150	9/15/2016	Vidhata Sales	8,325	50	416,250
156	9/17/2016	Vidhata Sales	8,000	50	400,000
160	9/20/2016	Vidhata Sales	13,500	50	675,000
162	9/21/2016	Vidhata Sales	8,000	50	400,000
161	9/21/2016	KK Enterprises	13,950	50	697,500
164	9/22/2016	Vidhata Sales	7,699	50	384,950
166	9/23/2016	Satyam Traders	11,950	50	597,500
167	9/24/2016	KK Enterprises	13,200	50	660,000
171	9/29/2016	KK Enterprises	8,200	50	410,000
172	9/30/2016	Vidhata Sales	8,325	50	416,250
173	10/3/2016	KK Enterprises	7,385	51	372,943
174	10/7/2016	Vidhata Sales	7,385	51	372,943
175	11/2/2016	Vidhata Sales	14,280	50	714,000
176	11/3/2016	KK Enterprises	14,603	50	730,150
177	11/4/2016	Vidhata Sales	14,544	50	727,200
181	11/9/2016	KK Enterprises	13,711	50	685,550
183	11/10/2016	Vidhata Sales	13,952	50	697,600
186	11/15/2016	Vidhata Sales	15,048	50	752,400
188	11/18/2016	Satyam Traders	7,767	52	403,884
189	11/19/2016	KK Enterprises	14,289	50	714,450
194	11/30/2016	Satyam Traders	8,000	50	400,000
<b>Total</b>					<b>13,938,169</b>

Upon discussion with Mr. Gopal Kalra about aforementioned invoices, he took photocopies of those Invoices to verify the same.

**ix. Observation of Field Investigation**

We have conducted field investigation of address of some parties, which are involved in business with CD for Led Bulb. Observations are as below:

**a) Address: Shop No.1, Tyagi Market, Ghughna, Ghaziabad.**

**Firm Name: Satyam Traders**

- **Date of Field Visit: 19.06.2019** During the field Investigation of Satyam Traders, Shop No.1, Tyagi Market, Ghughna, Ghaziabad, Investigation Team did not find shop with Name of M/s Satyam traders at the given address.
- A small cycle shop is running from aforementioned address with name of Rehman cycle works.

- As per the detailed discussion with Rehman cycle works he revealed that he is the ultimate beneficiary and owner of the shop for the last 12 years and there is no other business activity was conducted by anyone apart from cycle works.

A photograph of aforementioned address is under:



b) Address: Shop No.1, Sihani Nandgram Road, Subhash Nagar, Ghaziabad.  
Firm Name: Garg Sales Corporations

Date: 19.06.2019

During the field Investigation of Garg Sales Corporations, Shop No.1, Nandgram Road, Subhash Nagar, Ghaziabad, It was found that-

- Rashmi Electricals is running business on this address since 2004.
- The owner of shop revealed that this shop is only utilized by them with name & Style as M/s Rashmi electrical since its incorporation not by Garg Sales Corporations. Photograph is attached as below:



c) Address: Plot No.305, Shinani Village Sihani Road, Ghaziabad.  
Firm Name: B S Enterprises

Date: 19.06.2019

While conducting the field Investigation of Plot No.305, Shinani Village Sihani Road, Ghaziabad, audit revealed that-

- The plot no.305 is being used for godown and its was shut-off on the day of investigation.
- As per the detailed discussion with the nearby people of the plot no. 305, it was revealed that the said plot is being utilized by the Jaggannath electrical as godown for Led televisions. There is no such plot 305 with the name of B S Enterprises.

Photograph is attached as below:



d) Address: Shop No.1 Plot No. 361 Bhardwaj Bhavan, Main Market, Sahibabad, UP.

Firm Name: S P Trading Co.

Date: 19.06.2019 During filed visit of the S P Trading Co. No.1 Plot No. 361 Bhardwaj Bhavan, Main Market, Sahibabad, UP. It was found that

- The above address is house of Bhardwaj family.
- As per the discussion with the Mr. Rajesh owner of the shop no.1, plot No. 361, revealed that the above shop is being used by him for Iron and steel products with name of S P Engineers only.
- There is no such shop of S P trading co with the same address.

Photograph is attached as below:



From above field investigation, it was observed that address of business as mentioned on balance confirmation and tally doesn't confirm that those companies are running business at same place.

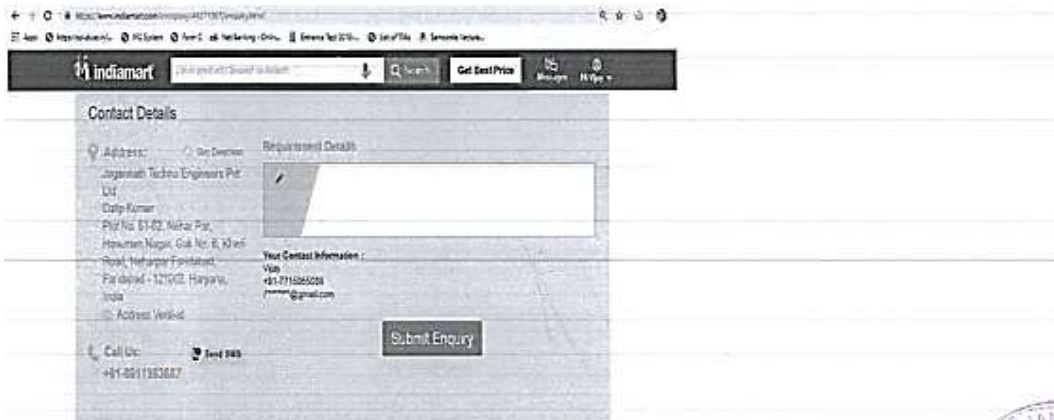
**x. Doubtful transaction with Jaggannath Techno Engineers Pvt Ltd.**

As per BOA, During the FY 2016-17, CD has made purchases of "LED Bulb" amounting Rs. 1.52 Crores and paid Rs. 1.52 Crores to Jaggannath Techno Engineers Pvt Ltd.

During the public domain search it is found that the Company is based out at Faridabad and dealing in manufacturing of Grill, Safety Door, Fabrication Jail Works, Safety Doors, Rolling Shutters and Sheet Metal components and Agriculture Tools.



We had telephonic conversation with Mr. Dalip Kumar director of "Jaggannath Techno Engineers Pvt Ltd" on the contact no. available on indiamart.com. He informed us that, the Company is not dealing in electronic items and solely engaged in metal fabrication work. Contact details as per indiamart.com is depicted below:



**Logs of tele conversation held with Mr. Dilip is as under:**



**Management Clarification/Information Sought:**

We seek following clarifications /information in relation to observations as mentioned above:

1. Supporting documents for the above trading transactions recorded in BOA wrt sales / purchases like PO/Sales order/Invoices/transport documents/LR receipt etc. for above mentioned parties with whom these transactions were occurred.
2. Supporting documents of Sales return and purchase returns along with transportation documents and details of credit Note and Debit notes.
3. Explanation for entries posted in parties' ledger by way of adjustments or otherwise and confirmation from above parties.
4. Reason for not continuing trading transactions after FY 2016-17.

**Documents Provided:**

- Purchase Invoice of K K Enterprises and Vidhata Sales Corporation
- Debit Note of Vidhata Sales Corporation, Satyam Traders, K K Enterprises
- Credit Notes of S P Trading Company, Garg Sales Corporation, B S Enterprises
- Ledger's Balance Confirmations by parties as mentioned below-

Sr No	Parties	Period
1	SP Trading co.	1-4-15 to 25-11-17
2	Garg sales corporation	1-4-15 to 25-11-17
3	K K Enterprise	1-4-15 to 25-11-17
4	Satyam Traders	1-4-15 to 25-11-17
5	Vidhata sales corporation	1-4-15 to 25-11-17
6	B S Enterprises	1-4-15 to 31-03-17

**Management Comments:**

Suspicious Transactions with Jaggannath Techno Engineers Pvt. Ltd.

As per your search from the public domain IndiaMart, the contact details is given by you which is not the same as given on point 4 wherein you have made an observation that three purchasing parties have the common address. Kindly check.

Further, we need to clarify that we were in contact with Mr. Sanjeev Kumar, Director of Jagannath Techno at the time of the transactions and not with Mr. Daleep Kumar. There may be some issues in confirmation, but we do have all the transaction papers which are already given in the documents taken in possession by the RP.

**Conclusion:**

From the above trading transactions reported, it is evident that:

1. Field investigation of few customers/vendors were found negative, however ledger's balance confirmations have been provided by CD.  
However, in regard to balance confirmations from all parties involved in transactions, we have requested all parties to confirm the balances through post however did not get any response until the issuance of the report.
2. There is mismatch in purchases recorded as per books of accounts and physical invoices verified.
3. Transport documents for above transactions were not made available for review, therefore actual movement of goods cannot be commented upon.

4. Considering the above facts, the turnover of LED Bulbs does not appear to be genuine. An analysis of the fund movement in bank on account of this turnover shows that no cash loss seems to have been caused to the Company by virtue of these transactions. On netting of the purchase payments and sale realisations, a sum of Rs.113,220,167/- has been received by the Company. However considering all the sale/purchase and debit/credit notes transactions of the LED Business there seems to have caused a Notional Loss of Rs.3.18 crores to the CD. The net effect of the same is shown as below:

Funds Flow		Notional Loss		
Bank Receipts	Bank Payments	Op. Stock	Purchases	Sales
47,658,212	(34,438,046)	552,600	29,279,400	1,964,302
<b>Net Effect</b>	<b>+13,220,167</b>		<b>(-) (31,796,302)</b>	



#### Further Management Clarification

With reference to the observations made on Trading transactions of LED Bulbs business conducted by the company during the year 2016-17 and 2017-18. A point wise reply to your observations has already been sent. Now I would like to bring to your attention an overall view of the transactions in this business.

- That during 2015-16 the company sold material worth Rs542.27 Lacs and made a gross profit of Rs375.54 lacs. It was this business which could bring profits in the company in the year 2015-16. The LED bulbs were sold with a warranty for one year from its actual usage. The Company purchased the material with the similar warranty. Copy of Stock register for the year is attached **(Refer Annexure MC- A1)**.
- The company during the year 2016-17 tried very hard and could sold the material worth Rs665.58 Lacs with a profit margin of Rs31.59 lacs. **(Refer Annexure MC -A2)**
- It was in the year 2017-18 the material sold was returned to the company and company to save its cost returned back the material to the supplier. The records of debit / credit notes relating to the parties with confirmations from the suppliers and vendors have already been verified by the auditors.
- If we look into the overall business of LED conducted by the company, the company has made a net profit of Rs83.30 Lacs. **(Refer Annexure MC -A3)**
- Also if we look in to the cash flow the company had a net Inflow of Rs.146.20 lacs from its vendors after deducting amount paid to the suppliers (copy of cash flow from the business is attached. **(Refer Annexure MC A4)**
- Further the sales and purchase of these material have duly been recorded in the returns of VAT filed by the company for the year 2016-17.
- Please note that in view of sale and purchase figures of FY 15-16, it is quite clear that the company conducted its business genuinely and there was not an iota of diversion of any funds.
- In fact, the Stock Auditor's appointed by the Bank themselves have audited the stocks and the Stock Audit Reports have with clarity established that the transactions were genuine in as much as the Stock was found present in the Company. Copy of Stock Auditors Report appointed by the Bank DATED 14.01.2017 AND 28.03.2018 are attached herewith **(Refer Annexure MC -A6)**

- Further Debtors of the company are reflected in each DP Statement and also forming part of the Stock Audit conducted by the stock auditors appointed by the Bank. These debtors are relating to Led business too.

**Audit re-joinder**

It is to be noted that the stock audit report does not highlight any stock/receivables specifically relating to the LED business.

10. When the stand taken by the Applicant is supported not only by the Forensic Audit Report, we cannot avoid the inevitable conclusion that the Respondents entered into fraudulent transaction and the Respondent No. 1 is liable to contribute an amount of Rs. 3,18,00,000/- to the assets/CIRP account of CD. The Respondent No. 2 is also liable to contribute an amount of Rs. 8,00,000/- to the CIRP account of CD, regarding which no explanation has been given in the written synopsis filed on behalf of the CD. The Respondent No. 3 is also liable to clear the outstanding amount of Rs. 32,78,551/- and to contribute the same to CIRP account of the CD. The total amount almost match with the amount of loss incurred by CD for FY 17-18.

11. The application is disposed of with directions to the Respondent Nos. 1, 2 and 3 to contribute the aforementioned amounts to CIRP account/assets of the CD within four weeks from today.

**Sd/-**  
**(L. N. GUPTA)**  
**MEMBER (T)**

**Sd/-**  
**(ASHOK KUMAR BHARDWAJ)**  
**MEMBER (J)**