



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

**I.A No.31/BB/2021**  
**IN**  
**CP (IB) No. 148/BB/2017**

**IN THE MATTER OF:**

**Mr. Srikantiah Shivaswamy,**  
Liquidator in the liquidation of  
Le Ecosystem Technology India Private Limited  
Having its registered office at Nos 205 & 206  
2<sup>nd</sup> Floor, Prestige Meridian I No.29  
Mahatma Gandhi Road  
Bangalore – 560 001.

... Applicant

**Versus**

**Compal Electronics India Private Limited**  
Having its registered office at  
Flat no. 412A, Building No. 43,  
Chiranjiv Tower, Nehru Place,  
New Delhi- 110 019

... Respondent

**Order delivered on: 28<sup>th</sup> March, 2023**

**Coram:** Hon'ble Justice (Retd.) T. Krishnavalli, Member (Judicial)  
Hon'ble Shri. Manoj Kumar Dubey, Member (Technical)

**PRESENT:**

For the Applicant : Shri Manu Kulkarni  
Ms Shristi Widge  
Shri Manoj Raikar

For the Respondent : Shri Pawan Sharma

**ORDER**

**Per: Manoj Kumar Dubey, Member (Technical)**

1. The present application is filed on 15.12.2020 by the Liquidator in the Liquidation of Le Ecosystem Technology India Private Limited, the Corporate Debtor, under Section 43(1), (2) & (4) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules, 2016 seeking



to reject the claim filed by the Respondent under Section 43(2), (4) of IBC as related party and the place the respondent below other creditors under the Waterfall mechanism laid down under Section 53 of IBC.

2. The CIRP against the Corporate Debtor (Le Ecosystem Technology India Private Limited) was initiated by this Tribunal under section 9 of the IBC, 2016 on 09.11.20218. It is further submitted that since the Corporate Debtor was defunct and expect for nominal balance of Rs. 4.90 lacs in the Current Account there was no other tangible assets left in the Corporate Debtor no valuer was appointed. The RP filed I.A No 268/2019 under section 33(2) of the IBC, 2016 seeking approval of the Adjudicating Authority for initiating liquidation process of the Corporate Debtor based on the resolution passed in 3<sup>rd</sup> CoC meeting. This Tribunal allowed the I.A vide order dated 28.06.2019 and appointed RP as Liquidator under section 34(2) of IBC, 2016.
3. It is submitted that the Balance Sheet for Financial Year 2016-2017, of the Corporate Debtor reflects huge receivables from Le Corp, Hong Kong being the sole buyers and promoters of the CD. However, Le Corp is also facing liquidation with Grant Thornton acting as court appointed liquidator in Hong Kong. M/s Grant Thornton have confirmed their liability of Le Corp to the tune of HK \$ 22.5Mn towards their Indian Subsidiary.
4. It is submitted by the Liquidator that the instant I.A is filed for declaring the claims submitted by Compal Electronics India Pvt Ltd, (CEPL) Operational Creditor, as void, under Section 43 of IBC 2016 due to close Inter Corporate relationship with the Corporate Debtor at global level as evidenced from the nature of transactions and information available on public domain.
5. It is further submitted that the Corporate Debtor under Liquidation, was promoted by Le Eco Corp of Hong Kong in 2015 with a nominal Capital of Rs. 1 Lakh however, the Corporate Debtor managed to post a turnover of over Rs. 220 crores in its 2<sup>nd</sup> year of operation. It is submitted that being unable to sustain operation with such a narrow equity base, the Corporate Debtor faced resource crunch in its 3<sup>rd</sup> year of operation and slipped into insolvency in 2018 coinciding with the



similar fate by its promoter company. The Corporate Debtor had been reduced to a shell company without any tangible assets and huge accumulated losses. Moreover, all the employees of Company had been retrenched in 2017 itself and the Corporate Debtor slipped into liquidation in June 2019.

6. It is submitted that on scrutiny of the transactions of the Corporate Debtor, 24 months prior to Liquidation to identify Preferential, Undervalues, Fraudulent transactions the Liquidator observed that the Corporate Debtor managed to leverage operation on the trade creditors and substantial support lent by the Respondent, a subsidiary of Taiwan based Company and extensive operation worldwide raised suspicion about the nature of trade relationship. It is submitted that both the companies viz. Corporate Debtor and the Respondent follow similar corporate policies and trade practices and remain tight lipped about their relationship by submitting false/incorrect statements.
7. It is further submitted by the Liquidator that it would baffle any financial expert to unravel the mystery of Rs. 220 crores turnover with a token investment of Rs. 1 lakh only. Further, it can be surmised that due to the restriction on repatriation of profit on FDI, Le Ecosystem Technology India Pvt Ltd, the corporate debtor, invested only a token amount of Rs. 1 Lakh as Equity and brought in required funds indirectly through their partner i.e Compal Electronics India Pvt Ltd.
8. Further, the Liquidator sought clarifications from the Respondent on their status vis-à-vis Le Ecosystem Technology India Pvt Ltd., vide email dated 01.08.2019. However, the respondent denied any type of related party transactions and described it as normal business deal between the buyer and vendor. The respondent in September 2019, submitted claims signed by Mr. Guodung Yu, Taiwanese Director and registered with MCA. The affidavit signed by Guyodung Yu, Taiwanese National on the Board of OC since 2016 was not notarized. Though the affidavit is dated 13.09.2019, he is mentioned as a resident of Taiwan but the stamp paper attached thereto is purchased from Delhi on 03.10.2019. The Liquidator had suggested that a suitable Affidavit/Undertaking to that effect should be notarized/attested by



Consulate General in Taiwan/ Hong Kong. However, the Opponent has failed to submit any credible evidence about the bonafide nature of claim let alone undertaking attested by Consulate General. It is submitted that Respondent can't afford to file false/fabricated documents before the Liquidator that can be termed as fraudulent.

9. It is submitted that the Liquidator had written to the respondent company about the defects in the claim documents and wanted a board resolution authorizing a responsible person to sign and submit claims backed by a Notarixed Affidavit. Further, the Liquidator again wrote to the Respondent Company and wanted that Affidavit to be notarized by Consulate General either in Taiwan or HongKong since he was a Taiwan National with an undertaking that the respondent is not a related party. However, after almost 9 months of silence, the Respondent again submitted the old claims signed this time by Mr. Ujjwal Singh Katiyar. Clearly, the respondent was not in a position to deny the existence of related party status by way of an Affidavit and was only interested in pushing a false claim. The Liquidator's careful scrutiny of the claims submitted and further searches in the public domain into the affairs of the Company vis-à-vis Le Ecosystem Technology Pvt. Ltd revealed many other interesting facts as stated hereunder:

- a. The Noida Plant of CEPL was inaugurated in August 2016 and Le Ecosystem Technology India Pvt. Ltd, the Corporate Debtor, placed order dated 19.08.2016 for 35000 Superphones amounting to Rs. 49.51 crores by a single purchase order.
- b. Compal Electronics supplied goods worth Rs. 37.80 crores over a period of 40 days from 13.09.2016 to 21.10.2016 in 9 batches. There have been no further transactions on account of CEPL in the books of Le Ecosystem Technology India Pvt. Ltd. CEPL never followed up with Le Ecosystem India Pvt Ltd from 2016-2018 for payment of sale invoices even once. It was widely believed in Le Ecosystem that Compal would be compensated globally by way of equity infusion. In fact, CEPL had not even responded to the Public



Announcement in December 2018 but belatedly submitted claims after a mail from the IRP.

- c. As per the ledger extract Compal Electronis with Le Ecosystem, on 16.12.20216, the Corporate Debtor, transferred Rs. 8,48,75,385.24 in 13 tranches of Rs. 64,00,00/- each besides additional Rs. 16,75,385.24 as advance payment against Purchase Order p1010 dated 16.12.2016. There was no communication for payment of earlier purchase order nor the respondent company exercised its right of lien by appropriating such advance towards existing dues. On the very next date, i.e 17.12.2016, Compal Electronics dispatched 6000 quantities of Le 2 Rose Gold Superphones vide invoice # PO 255#0023C1612001 dated 16.12.2016. Hence, all these transactions took place on a single day placing Inter Corporate relationship on a much higher pedestal than mere vendor/buyer and puts at rest any differences or dispute/disagreement on the such payments. It is submitted that Purchase Order and Advance for a very big order materialized on the same day i.e., 16.12.2016 points to “sole selling arrangements, sole buying arrangements, pre-buy decisions, single sourcing strategies without competitive sourcing pre-arranged”. It also raises some doubts about the authenticity and genuine nature of such transactions and whether it could be plausibly undertaken at all. Further, the Liquidator reserves his right to file another IA under Section 66 of IBC for declaring such transactions as fraudulent in case recommended in Forensic Audit report underway.
- d. As per email communication dated 3<sup>rd</sup> November 2020 received from Loo Ka Kin, Manager, Restructuring of Grant Thornton, HK Compal Electronics neither figures as Debtor or Creditor in their book. They have also confirmed that total claim amount payable by Le Corp to their Indian subsidiary is HK \$ 25,494,976.75. However, they have refused to confirm or deny the equity infusion either way.
- e. As per the reports available in Public domain, Le Eco Corp, Hong Kong based promoters of Le Ecosystem Technology India Pvt. Ltd, was facing liquidity crunch since 2016 itself. And in order to settle



the dues of its suppliers had agreed to equity infusion at global level. The report dated 29<sup>th</sup> March 2017 appearing in China Money Network was as follows:

*Taiwan-based Compal Electronics has bought a 2.155 stake in LeshiZhixin, the smart TV unit of Chinese smartphone maker LeEco, for RMB700 million (US\$101 billion), valuing the company at RMB32.5 billion (US \$ 4.7) pre-money. Compal Electronics is already a parts supplier to Le Eco. After completion of the deal, Zhixin's registered capital will reach RMB327 million (US\$ 47 million), with Le Eco remaining the controlling shareholder, holding 38.5% of the company.*

f. The report further stated:

*Last November, Compal announced that it was changing its shipping policy on parts to Le Eco as the Chinese company owed RMB1.79 billion (US\$260 million) in unpaid receivables, including RMB919 MILLION (us\$133 million) up to 180 days overdue. LeEco reportedly made the necessary payments later that month.*

10. It is submitted that the claims received have been processed and cross checked with the unaudited Statement as on 31.03.2019. As against the total liabilities of Rs. 61.09 crores we have received claims worth Rs. 49.64 crores with the Respondent, accounting for 61% of claim amount at Rs. 37.80 crores. Further, the respondent, CEPL, with its headquarters at Taiwan and manufacturing facility at Nodia had entered into an arrangement with Le Corp., Hong Kong for contract manufacturing of smart phones for Le Ecosystem Technology Pvt. Ltd. it was believed that Le Corp would compensate the cost plus by way of equity contribution in CEPL. Clearly, CEPL was not in a position to deny the existence of related party status by way of an Affidavit and was only pushing false claim. The above reports corroborate the fact that business relationship between 2 entities are much deeper than CEPL is willing to admit and CEPL has already received the payment of its receivables by way of equity infusion. Another pertinent point to be noted is the nominal capital of Rs. 1 Lakhs invested by Le Corp into Le Ecosystem Technology Pvt Ltd and still achieving turnover of Rs 220



crores in its 2<sup>nd</sup> year of operation. The actual investment of Rs. 50 crores had taken place via the Respondent and Le Eco had also recovered substantial portion of investment by way of purchase. The presence of the CEPL, with their complex and convoluted relationship with Le Eco at global level, has put other members of CoC at a substantially disadvantageous position. Hence the claim of Rs 37.80 crores submitted by CEPL is liable to be rejected as preferential transactions under Section 43 of IBC, undertaken with related party. Besides the claims are also liable to be rejected under Section 66 of IBC as a fraudulent transaction in case debts are proved to have been paid at overseas locations.

11. It is further submitted that reluctance of CEPL's permanent director to get the Affidavit notarized by Indian Consulate General at Taiwan/Hong Kong was aimed at hiding the vital information about their dealing with Le Eco at global level. It is also pertinent to mention that Le Eco founder Mr. Jia Yueting has been declared as proclaimed economic offender and absconding from Court proceedings in China. The conduct of CEPL during CIRP was bordering on extreme non-cooperation as they had chosen to oppose even the routine resolution of approving IRP expenses or Liquidation fee. This point was reported to this NCLT in May 2019 itself while praying for order for liquidation. The claims of CEPL are liable to be rejected due to defective Affidavit and their refusal to come clean on their relationship with the CD, that are too apparent even to the naked eye. CEPL's claims ought to be rejected due to deemed related party nature of their relationship with the CD at global level. The claims are liable to be rejected in the event of proven evidence of receipt of funds at global level and their attempts to hide it by resorting to false and defective Affidavit.
12. The Liquidator submits that there are enough evidences in the public domain about the nature of relationship between Le Eco and CEPL, both at local and global level, with substantial Inter- Corporate investment bordering on related party transactions. Such a relationship has put CEPL in a distinctly advantageous position vis-à-vis other creditor. Besides, the claims supported by incomplete and



defective Affidavit cannot be accepted. CEPL with worldwide operation should realize that a defective Affidavit cannot be cured by it being replaced with another Affidavit without addressing the basic issues. Therefore, the Liquidator is well within his right to reject defective claims. However, on satisfactory submission of Affidavit backed by authenticated documents on their relationship, the claims could be re-admitted.

13. The Liquidator has undertaken the process of submission of comprehensive IA on avoidance of transactions under section 43, 45, 49 and 66 of the IBC. The Audit work entrusted to K.S Ramkumar & Co., Chartered Accountants, is being closely monitored by the Liquidator. During the course of Audit, if transactions of fraudulent nature are established, the Liquidator will file necessary IA under Section 66 and 67 of IBC as well.
14. The Respondent filed its objection/written arguments raising the following objections:
  - a. Compal Electronics India Private Limited an Indian subsidiary of Panpal Technology Corp. Further Compal Electronics INC.is the ultimate holding company, Compal in view of a ODM model with Le Ecosystem Technology India Private Limited (“CD”) manufactured and supplied mobiles phones solely to the Corporate Debtor against the purchase orders. Accordingly the products were manufactured and supplied to Corporate Debtor and invoiced.
  - b. Corporate Debtor owes Rs. 37,80,64,247.52 to Compal against unpaid invoices. These invoices are matter of record and admittedly not in dispute. Compal during CIRP and in course of Liquidation submitted its claim duly before the RP/Liquidator. Compal claim constitute 76.32% of total claims in CD/liquidating company.
  - c. It is submitted that Liquidator made out a case purportedly falling under section 43 of the Insolvency and Bankruptcy code, 2016 against Compal and seeks rejection of the claim of the Compal in CD/Liquidating company alleging that compal is a related party of CD/Liquidating company while relying on Section 5 (24) (m) of the Code and alleges that transaction carried between Compal and



CD/Liquidating Company in India are preferential transaction as contemplated under section 43 of the Code in view of alleged global relationship and information available on public domain. It is submitted that the relationship is only of Vendor and Customer but liquidator mischievously presenting and making out a frivolous case pursuant to u/s 43 of IBC, 2016. The liquidator has not adduced any evidence to seek determination of his presumption attract any of the clauses in section 5 (24)(m) that determines a related party status to compal.

- d. The transaction entered between Compal and the CD cannot be determined as preferential transaction in view of statutory provision of section 43(2) of the Code that provides for the instances as to those specific transaction be considered as preferential and not otherwise.
- e. The learned counsel had also referred to the decision by Hon'ble Apex Court in the case of "Anuj Jain v Jaypee Infratech Limited" wherein it is observed that "*CD shall be deemed to have given preference only if it is satisfied that there being a transfer of property or interest thereof, such transfer is made for the benefit of a creditor, surety or guarantor and the transfer should be done on account of antedecedent debt which may be financial or operational or other liabilities owed by the CD. Futher it is also to be determined that as a result of alleged transfer, such creditor, surety or guarantor position will change to a beneficial position in the distribution of assets being made in accordance with section 53 in the event of if the transfer has not been done*".
- f. It is further submitted that the Liquidator has not controverted as to how and in what manner section 43(2) attracted in the alleged transaction nor indicated as to in what manner the principles laid down referred judgment is not applicable in the present case.
- g. Moreover, as per the averment of the Applicant the verification of claims and audit of CD's account is still pending, it is averred by the Applicant that a detailed audit of the accounts of CD for FY 17-18 and FY 18-19 are under way and the Applicant undertakes to



submit comprehensive report to the Adjudicating Authority (AA) on avoidance transaction. Therefore, as per the own admission of the applicant the basis and foundation of the present application are without any determination by the Applicant.

- h. It is submitted that the present I.A was filed praying for declaring the claim submitted by CEPL as void, under section 43 of IBC 2016 due to close intercorporate relationship with corporate debtor at global level as evidence from the nature of transaction and information available on public domain. It can be inferred that the cause of action is on “belief” and nothing brought by liquidator to prove these averments.
- i. Further, the Liquidator reserves his right to file another IA under section 66 of IBC for declaring such transactions as fraudulent in case recommended in forensic Audit underway, hence it is clear that the Liquidator himself admits that the present application is premature and he had not been able to determine conclusively the transaction as preferential or fraudulent.
- j. Moreover, the CIRP initiated since 09.11.2018, liquidation commenced since 28.06.2019, neither the RP/liquidator proved any receipt of funds by compal at global level arising out of claim from CD nor the Liquidator moved any application under section 66 of the code. The case made out by the Liquidator is purely on assumption while abusing the process of law.
- k. It is also submitted that the liquidator rejected the claim of Compal on dated 20.08.2020 and upon appeal made by Compal before this Tribunal and vide order dated 22.12.2020 the claim of Compal was admitted by the Liquidator. Now the liquidator intends to seek rejection of claim by this Tribunal pursuant to section 43 of the Code. It is submitted that liquidator acts are malicious and warrants heavy cost imposition on him, since the jurisdiction of section 43 do not provides for rejection of claim by the Tribunal. Rejection or acceptance of claim per-se is vested jurisdiction with IRP/RP/Liquidator. Having once already exercised the jurisdiction



to adjudicate claim, the liquidator indirectly intends to fulfil his malafide objective to deny the legitimate claim of Compal.

15. The Learned counsel for the Applicant filed rejoinder vide diary no. 2062 dated 06.08.2021 and the same is taken on record.
16. Heard both the counsel and perused the records available.
17. On 09.01.2023 Tribunal directed both the Counsels to file 4 page synopsis a/w relevant documents. The said compliance is made vide diary Nos 771 and 874 dated 09.02.2023 and 14.02.2023. And the same is taken on record.
18. The present petition is filed under section 43 (1), (2) & (4) by the Liquidator in the liquidation of Le Ecosystem Technology India Private Limited seeking for order rejecting the Opponent's (CEPL) claim as related party and the Opponent be placed below the other creditors under Waterfall Mechanism laid down under section 53 of IBC.
19. It is seen from the petition that the Liquidator submits that the claim filed by the Opponent company is defective. Liquidator further submits that on perusal of the information available on the public domain liquidator has come to the conclusion that there exist related party transaction. To substantiate his points the liquidator has cited certain facts which he has obtained from the public domain.
  - a. *“ The Nodia Plant of CEPL was inaugurated in August 2016 and Le Ecosystem Technology India Pvt.Ltd, the Corporate Debtor, place order dated 19.08.2016 for 35000 Superphones amounting to Rs. 49.51 crores by a single purchase order.*
  - b. *Compal Electronics supplied goods worth Rs. 37.80 crores over a period of 40 days from 13.09.2016 to 21.10.2016 in 9 batches. There have been no transactions on account of CEPL in the books of Le Ecosystem Technology India Pvt. Ltd. CEPL never followed up with Le Ecosystem India Pvt Ltd from 2016-2018 for payment of sale invoices even once. It was widely believed in Le Ecosystem that Compal would be compensated globally by way of equity fusion.....*
20. It is further submitted by the liquidator that detailed Audit of the accounts of CD for FY 17-18 & FY 18-19 are underway. Further



liquidator reserve his right to file I.A on receiving the comprehensive report from the auditors under section 45, 50 and 66 of IBC.

21. However, on perusal of the submission made by the Respondent it is observed that the Liquidator has earlier rejected the claim of Compal on 20.08.2020 and upon appeal made by Compal before this Tribunal and vide order dated 22.12.2020 the claim of Compal was admitted by the Liquidator. It is further submitted by the respondent that jurisdiction of section 43 does not provide for rejection of claim by this Tribunal.
22. It is observed from the submission made by the Liquidator that the Liquidator is widely relying on the information spreading in the public domains and newspaper reports and not on documentary evidence. It is also noted that the Liquidator has filed this application under section 43 of the IBC, *inter alia* praying for a direction from this Tribunal rejecting the claim of the Opponents as related party.
23. At this juncture Tribunal would like to point out that the Orders in case of preferential transactions is provided under section 44 of the IBC. The relevant portions are enumerated as under.
  - 44(1) The Adjudicating Authority, may on an application made by the resolution professional or liquidator under sub-section (1) of section 43, by order;-*
  - a. Require any property transferred in connection with the giving of the preference to be vested in the corporate debtor;*
  - b. Require any property to be so vested if it represents the application either of the proceeds of sale of property so transferred or of money so transferred;*
  - c. Release or discharge of any security interest created by the corporate debtor;*
  - d. Require any person to pay such sums in respect of benefits received by him from the corporate debtor, such sums to the liquidator or the resolution professional, as the Adjudicating Authority deems appropriate;*
  - e. Direct for providing security or charge on any property for the discharge of any financial debt or operational debt under the order, and such security or charge to have the same priority as a security or charge released or discharged wholly or in part by the giving of the preference; and*
  - f. Direct for providing the extent to which any person whose property is so vested in the corporate debtor, or on whom financial debts or operational debts are imposed by the order, are to be proved in the liquidation or the corporate insolvency resolution process for financial debts or operational debts which arose from, or were released or discharged wholly or in part by the giving of the preference.*
24. Section 44 specifies the orders that may be passed in relation to the avoidance of a preferential transaction further, this orders are aimed at reversing the effects of the preferential transactions and requiring



the person to whom the preference is granted to pay back any gains he may made as a result of such preference.

25. Accordingly, this Tribunal is of the considered opinion that the jurisdiction of Section 44 do not provides for rejection of claim. Hence I.A 31 of 2021 is liable to be dismissed. However, it is pertinent to point out that this Tribunal has not gone into the merits of the contentions raised by the Liquidator, and has dismissed this application solely on the basis of the technical issue of scope of Section 43; and this order shall in no way prevent the Applicant in taking further necessary steps in accordance with law.
26. **I.A 31 of 2021** is disposed accordingly.

**-Sd-**

**(MANOJ KUMAR DUBEY)  
MEMBER (TECHNICAL)**

**-Sd-**

**(T. KRISHNAVALLI)  
MEMBER (JUDICIAL)**