THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH-I

IA 623/2025 & IA 909/2025

Under Sections 66 of the Insolvency and Bankruptcy Code, 2016

Orion Resolution & Turnaround Pvt. Ltd.

...**Applicant**

V/s

Rudolph Anthony Lima & Ors.

…**Respondent**

In the matter of

COMPANY PETITION (IB) 437 (MB) OF 2022

OMKARA ASSET RECONSTRUCTIONS PRIVATE LIMITED

…Petitioner

V/s

MARSHALL BREEDERS PRIVATE LIMITED

…Respondent

Order delivered on: 17.10.2025

***Coram**:*

Shri Prabhat Kumar

Hon'ble Member (Technical)

Shri Sushil Mahadeorao Kochey

Hon'ble Member (Judicial)

Appearances:

For the Applicant	:	Adv. Prateek Seksaria i/b Adv. Abhishek Salian a/w Adv. Kinnari Raut
For the Respondent No.1, 2 & 7	:	Adv. Vinita Hombalkar a/w Adv. Harsh Kumar
For the Respondent No.3 to 6 and 8	:	Adv. Ansh Karnawat a/w Adv. Falak Doshi

ORDER

1. This Application IA 623/2025 was filed by Orion Resolution & Turnaround Pvt. Ltd. ("Applicant/RP"), the Resolution Professional of Marshall Breeders Private Limited ("Corporate Debtor"), seeking following reliefs in terms of Section 66 of the Insolvency and Bankruptcy Code, 2016 ("Code"):

   a) *Declare that the transfer of shares as stated in form MGT-7 A, by Corporate Debtor to Respondent Nos. 3 and 4 are undervalued and fraudulent and thus, null and void;*

   b) *Direct the Respondent Nos. 5 and 6 to register the name of the Corporate Debtor as the holder of the shares as mentioned in the Schedule;*

   c) *In the event, the transfer of shares in Schedule A is held to be irreversible, this Hon'ble Tribunal be pleased to direct Respondent No. 2 to contribute an amount of Rs. 34.2092 Crores towards the fraudulent transfer of share;*

   d) *Declare that business of the Corporate Debtor has been carried on with the intent to defraud the creditors of the Corporate Debtor and to siphon off the funds of the Corporate Debtor to the promoters/Directors/related parties of the Corporate Debtor during the Review Period as set out;*

e) *Direct Respondents to contribute Rs. 70.89 Crores (Rupees Seventy Crores Eighty Nine Lakhs in furtherance of prayer clause (d) above, towards the fraudulent and wrongful trading carried out by him;*

f) *Any other or further reliefs as this Hon'ble Tribunal deems fit and proper.*

2. Respondent No. 1, Rudolph Anthony Lima, is promoter of Corporate Debtor who ceased to be a director of Corporate Debtor in 2022. Respondent No. 2, Terry Elias Dsouza, was the erstwhile Director of the Corporate Debtor along with Late Elias Dsouza (demised on April 21, 2024), who were all involved in the transactions under question in the present Application. Respondent Nos. 3, Michelle Elias Dsouza, is the daughter of Respondent No. 1 and also a Director in Respondent No. 5, M/s C&M Layer Farms Private Limited, since 2021 and in Respondent No. 6, M/s Shivneri Farms Private Limited. Respondent No. 4, Seraphine Sanjay Susainathan, is the daughter of Late Elias DSouza. Respondent No. 5 and 6 are sister concerns, involved in the business of poultry farming, but were wholly owned subsidiaries of the Corporate Debtor. Respondent No. 7, Mr. Rakesh Phirthu Yadav, is a member of the Suspended Board of the Directors of the Corporate Debtor and was inducted in the year 2023.

3. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process ("CIRP") vide order dated 15.05.2024 passed in an Application i.e. C.P. (IB) 437/2022 u/s 7 of the Code filed on 30.3.2022 by Omkara Assets Reconstruction Private Limited (Omkara). The Corporate Debtor was granted loans by Janalaxmi Cooperative Bank, which were classified as NPA on September 30, 2002 and later on these loans were assigned to Omkara in 2018. During the pendency of said application, this Tribunal vide its order dated 10.08.2022 in I.A. No. 1339 of 2022 ordered status-quo in respect of the assets of the Corporate Debtor till the next date of hearing. Further, vide order dated 23.12.2022 in I.A. No. 3369 of 2022, this Tribunal restrained the Respondent

Nos. 3 and 4 from alienating shares held by them in Respondent No. 5 and 6 and the said restraint was further continued vide order dated 15.5.2024 by which CIRP commenced.

4. The Applicant replaced the Interim Resolution Professional vide order dated 18.7.2024. Based on (i) the disclosures made by Corporate Debtor in a proceedings before Hon'ble DRT, Mumbai that the shareholding of the Corporate Debtor in Respondent Nos. 5 and 6 was transferred to the Respondent Nos. 3 and 4, with the approval of the Board of Directors of Respondent Nos. 5 and 6 (of which the Respondent No. 1 and Late Elias DSouza were a part); and (ii) the documents and records of the Corporate Debtor, the Applicant engaged a Forensic Auditor on 16.8.2024 to audit the records of the Corporate Debtor to review the transactions of the Corporate Debtor for the period of 10 years prior to CIRP i.e., from 16.5.2014 to 15.5.2024 ("Review Period") to identify whether any fraudulent transactions have been carried out. The Forensic Auditor in its Report dated 21.9.2024 stated that the affairs of the Corporate Debtor were fraudulently carried out by Respondent No. 2 with the involvement of Respondent Nos. 1, 3-4 and assets worth Rs. 70.89 Crores (Rupees Seventy Crore Eighty Nine Lakhs Only) of the Corporate Debtor have been systematically siphoned off during the Review Period for the benefit of the promoters and the related parties.

5. The following transactions have been impugned in the present application :

   a. Sale of a free hold land bearing Gut No. 207/1 in Indore at undervalued consideration of Rs. 35.00 Lakhs in FY 2016-2017 and transfer of said consideration to C&M Farming Ltd ., a company of which Respondent No. 1 & 2 were directors causing a loss of Rs. 0.50 crores to the Corporate Debtor;

   b. Back-dated transfer of shareholding of Corporate Debtor in Respondent Nos. 5 and 6 in favor of their daughters i.e. Respondent No. 3 and 4 in FY 2020-

2021 at undervalued price to defeat the recovery proceedings arising from final adjudication of Co-operative Case No. 1491 of 2005 causing a loss of Rs. 34.20 crores to the Corporate Debtor;

c. Advances to the tune of INR 1439.36 Lakhs to Related Parties for diversion of funds from FY 2014-2015 till FY 2022-2023;

d. Transfer of operational debt of Related Parties amounting to Rs. 19.58 crores - FY 2016--2017 to FY 2017-2018 to Corporate Debtor;

e. Write off of Receivables from (i) Obasanjo Farms Nigeria Ltd. amounting to Rs. 1,98,96,258/- and (ii) Mr. Mukund Kokil amounting to Rs. 22.91 Lakhs during FY 2019-2020 to 2020-2021.

6. The Applicant RP also filed another Application IA 909/2025 on 17.02.2025, seeking following interim reliefs in IA 623 of 2025 arraying all seven respondents in IA 625 of 2025 as party respondent herein as well and also arraying Mr. Manuel David Fernandes, the director of Respondent No. 5, as Respondent No. 8 :

   a) Pending the hearing and final disposal of the IA No. IBC 623 MB of 2025("PUFE Application"),this Hon'b1e Tribunal may be pleased to injunct Respondents Nos.3 and 4 from creating any third party rights whatsoever in any of the assets held by them without the prior permission of this Hon'ble Tribunal;

   b) Pending the hearing and final disposal of IA No. IBC 623 MB of 2025 ("PUFE Application"), this Hon'ble Tribunal may be pleased to appoint the Applicant or such other person as this Hon'b1e Tribunal may deems fit as receiver (with all powers stipulated under Order XL the Code of Civil Procedure, 1908) to take custody and control of all the assets of Respondent Nos.5 and 6.

c) *For such other reliefs as this Hon'ble Tribunal deems fit in the facts of the present matter.*

d) *For costs.*

7. On 20.3.2025, the Counsel for the Respondent No.3, 4, 5, 6 and 8 made a statement that *the Board of Respondent No.5 and 6 as well as Respondent No.3 & 4, the shareholder of Respondent No. 5 & 6 shall not deal with any of the assets of the Respondent No.5 and 6 till the next date of hearing*, and this statement was continued till this application was reserved for orders on 23.9.2025 alongwith IA 623 of 2025. Since, this Tribunal is proceeding to pass final orders in IA 623 of 2025, the **IA 909 of 2025 is rendered infructuous and disposed of.**

8. Respondent No. 1 and 2 filed a common reply dated 16.4.2025 stating that (a) the Applicant's case is based on an Audit Report, which records that '*it should not form the sole basis for any decision as to a potential course of action without independent confirmation of its findings; nor should it be relied upon as preferred advice.*'; (b) the reliefs sought in the IA are against entities which are not connected to the CIRP of the CD, accordingly, the reliefs are sought against strangers to the CIRP; (c) the transactions impugned in the IAs were carried out only in good faith and on the basis of the position of the CD at the relevant time; (d) the Application is barred by limitation and principles of delays and laches; (e) the transactions which could only have been categorized under categories barred by the look-back period, have been categorized into fraudulent transaction; (f) the documents furnished in response to the communications on 28.03.2025 and 02.04.2025 clearly show that the case of the Applicant has no documentary basis. The Respondents have explained the impugned transactions on fact as well, which shall be considered in the following paras.

9. Respondent No. 3 to 6 and 8 filed a common limited reply dated 16.4.2025 stating that (a) the transfer of the CD's shareholding in Respondent No. 5 and

Respondent No.6 in favor of these Respondents was executed for the express purpose of discharging the pre-existing financial liabilities owed by the CD to Respondent no. 3 (Michelle Dsouza) amounting to Rs. 1,18,197.69/-, and to Ms. Seraphine Susainathan amounting to Rs. 3,40,86,748/-; (b) these Respondents are bonafide transferees for consideration of the shares of Respondent nos. 5 and 6, and therefore their ownership over the same cannot be impugned for any alleged irregularity on part of other Respondents to the IAs; and (c) The transfer took effect on 15 April 2020 when the transfer forms were duly executed and the same does not postpone on Corporate Debtor making entries in their books of account and/or filing of the forms.

10. Respondent No. 7 has filed the reply stating that he joined the Corporate Debtor only in the year 2023 and the allegations in the Applications pertain to a period before his joining the Corporate Debtor, therefore, to the extent that the allegations are made qua Respondent No 7, they are liable to be dismissed.

11. The Applicant has filed rejoinder to the Replies filed by Respondent No. 1 & 2, and 3-6 & 8 stating that the forensic audit report was discussed before the Committee of Creditors in its 5th CoC meeting held on 22.11.2024 and it was decided to file an IA in respect of the fraudulent transactions as reported by the forensic audit report. The notices and minutes of all the COC meetings have been sent to Respondent Nos. 1 and 2 and they have chosen to remain absent in all the meetings of the Committee of Creditors and neither have they raised any objections to the forensic audit report till date which is a deemed acceptance of the said forensic audit report and the contents therein. The contention that inspection has not been given is false as all the documents on which the reliance is placed by the Applicant are already annexed to the Applications and there is nothing further for which inspection has to be given and that too to a party who is the creator of the transactions.

12. Both the parties also filed valuation reports and documents to evidence the circle rate as applicable to the immoveable properties for determination of its value.

13. Heard the learned counsel for both sides and perused the records.

14. Section 66 of the reads as under :

"Section 66: Fraudulent trading or wrongful trading.

*[*]**66.** (1) If during the corporate insolvency resolution process or a liquidation process, it is found that any business of the corporate debtor has been carried on with intent to defraud creditors of the corporate debtor or for any fraudulent purpose, the Adjudicating Authority may on the application of the resolution professional pass an order that any persons who were knowingly parties to the carrying on of the business in such manner shall be liable to make such contributions to the assets of the corporate debtor as it may deem fit.*

(2) On an application made by a resolution professional during the corporate insolvency resolution process, the Adjudicating Authority may by an order direct that a director or partner of the corporate debtor, as the case may be, shall be liable to make such contribution to the assets of the corporate debtor as it may deem fit, if—

(a) before the insolvency commencement date, such director or partner knew or ought to have known that the there was no reasonable prospect of avoiding the commencement of a corporate insolvency resolution process in respect of such corporate debtor; and

(b) such director or partner did not exercise due diligence in minimising the potential loss to the creditors of the corporate debtor.

(3) Notwithstanding anything contained in this section, no application shall be filed by a resolution professional under sub- section (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A.

Explanation.—For the purposes of this section a director or partner of the corporate debtor, as the case may be, shall be deemed to have exercised due diligence if such diligence was reasonably expected of a person carrying out the same functions as are carried out by such director or partner, as the case may be, in relation to the corporate debtor."

15. The Section 66 has two sub-section i.e. Sub-section 1 deals with order for contribution in case any business of the corporate debtor has been carried on with intent to defraud creditors of the corporate debtor or for any fraudulent purpose, and sub-section 2 deals with contribution in case of failure to exercise due diligence in minimising the potential loss to the creditors of the corporate debtor by the directors having knowledge that a corporate insolvency resolution process in respect of such corporate debtor cannot be avoided.

16. Though, the applicant has filed this application seeking relief in terms of Section 66 of the Code, however, it is noted that the prayer (a) seeks a declaration *that the transfer of shares as stated in form MGT-7 A , by Corporate Debtor to Respondent Nos. 3 and 4 are undervalued and fraudulent and thus, null and void*, which falls within the scope of Section 49 of the Code. Further, the pleadings in relation to this transaction also makes allegation of undervaluation coupled with fraudulent intent. Accordingly, we are of considered view that prayer (a) as well as prayer (b) & (c) which relates to transaction impugned in prayer (a) can be considered in terms of section 49 of the Code. In the case of ***P.K. Palanisamy v. N. Arumugham (2009) 9 SCC 173*****, it was held that** *It is a well settled principle of law that mentioning of a wrong provision or non-mentioning of a provision does not invalidate an order if the court and/or statutory authority had the requisite jurisdiction therefor***.** Hon'ble Supreme Court quoted from N. Mani v. Sangeetha Theatres & Ors. [(2004) 12 SCC 278], wherein it was held that "*9. It is well settled that if an authority has a power under the law merely because while exercising that power the source of power is not specifically referred to or a reference is made to a wrong provision of law, that by itself does not vitiate the exercise of power so long as the power does exist and can be traced to a source available in law.*" Accordingly, this Tribunal has jurisdiction to proceed further to examine the transactions in relation to prayer (a) in terms of Section 49 of the Code.

17. It is also pertinent to refer to decision in the case of ***Piramal Capital and Housing Finance Ltd. v. 63 Moons Technologies Ltd. and Ors. (2025) ibclaw.in 120 SC,*** wherein it was held that "60…………..*If the Resolution Professional has filed common applications under Sections 43, 45, 50 and also under Section 66, the Adjudicating Authority shall have to distinguish the same and decide as to which provision would be attracted to which of the Applications, and then shall exercise the powers and pass the orders in terms of the provisions of IBC."* It was also held therein that *"if the Resolution Professional has filed common applications under Sections 43, 45, 50 and also under Section 66, the Adjudicating Authority shall have to distinguish the same and decide as to which provision would be attracted to which of the Applications, and then shall exercise the powers and pass the orders in terms of the provisions of IBC."*

18. In case of ***Aditya Kumar Tibrewal v. OmPrakashPandey (2022) ibclaw.in 278 NCLAT***, it was held that "*Section 49 does not contain a time period during which the Application has to be filed. Hence Section 46 is not to be applied to the transactions which have been made to defraud the creditors.*" It is contended by the Respondents that Section 66 of the IBC does not have a statutory look-back period, there is always a reasonable period within which an action can be taken. Impugning old transactions, some of which occurred more than a decade ago, breaches any sense of a reasonable timeframe for such an action. It is relevant to note that Section 49 and 66 of the Code deals with transactions involving fraudulent conduct. It is trite law that fraud vitiates everything In this context, it is also pertinent to note that Section 17 of the Limitation Act, 1963 provides for running of limitation period in case of fraud from the time of its discovery with reasonable diligence. Hence, in the absence of specific look back period prescribed in relation to transactions falling under section 49 or 66 of the Code, a reasonable period can not be inferred as canvassed by the Respondents.

19. Respondent No. 3 to 6 & 8 have placed reliance on decision in case of ***Gluckrich Capital P. Ltd. v. State of West Bengal & Ors. [2023 SCC OnLine SC 1187]*** to contend that the Respondents are third parties and strangers to the Corporate

Insolvency Resolution Process ("CIRP") of the CD, hence. the prayers as sought cannot be maintained against these Respondents. However, in case of ***Royal India Corporation Ltd. v. Mr. Nandkishor Vishnupant Deshpande (RP) and Ors.***, ***(2024) ibclaw.in 304 NCLAT***, the decision in case of Gluckrich Capital (Supra) was distinguished after noting that the appellant therein and the Corporate Debtor were managed by common person by holding that the appellant can not said to be third party.

20. Accordingly, we will deal with facts of each transactions to look into applicability of Section 49 of 66 in the following paras.

21. An Application CP 437 of 2022 seeking initiation of CIRP was filed on 30.3.2022. Prior to this, the account of the Corporate Debtor was classified as NPA on 30.9.2002 by original lender leading to initiation of action under Maharashtra Co-operative Societies Act, 1960 wherein an award was passed in favor of original lender on 15.2.2018. Thereafter, an action under SARFAESI Act, 2002 was initiated on 4.7.2016. The loan of original lender came to be assigned in favor of Original Applicant in CP 437 of 2022 on 31.12.2021, who also initiated proceedings under Recovery of Debt and Bankruptcy Act, 1993 on 9.2.2022 for obtaining a Recovery Certificate in furtherance to the Award passed in proceedings under Co-operative Societies Act earlier by the original lender. The impugned transactions have been carried out starting from financial year 2016-17 onwards. In the backdrop of these facts, we proceed to examine each of transactions in following paras:

22. **Sale of a free hold land bearing Gut No. 207/1 in Indore at undervalued consideration of Rs. 35.00 Lakhs in FY 2016-2017 :**

   a. The Sale of a free hold land in Indore took place in the year 2016-17. The consideration for such transfer amounting to Rs. 35.00 Lakhs was received on 21.03.2015, which is alleged to be undervalued. It is also alleged that the book value of said land was shown as Rs. 48,00,000/-, however, the same was reduced to Rs. 6,33,983/- by debit to Reevaluation Reserve. Respondent No. 1 & 2, in their reply, have asserted that the land was purchased in 2000 for a sum of Rs. 6,33,893/-, which indicates that the amount of Rs. 6,33,983/- was original purchase value which was re-stated in the books of account by reversing the revalued figure to historical cost. This reversal has been alleged by the Applicant as fraudulent on the ground that such reversal enabled the Corporate Debtor to reflect such sale at profit of Rs. 28,66,017/- thus disguising its sale at under stated consideration.

b. In the application, the Applicant had asserted the market value of said land to be Rs. 50,00,000/- on estimation, however, during course of hearing, the Applicant placed on record Index II of the Sale Deed to demonstrate that the market value chargeable to stamp duty was Rs. 1,42,60,000/- in relation to said property and the stamp duty was paid accordingly while registering the conveyance document dated 1.7.2016 in relation to sale of said land.

c. It is pertinent to note that the said conveyance document was executed after 15 months, however, it is pertinent to note that execution of conveyance document in relation to sale of this land was carried out on 1.7.2016 while action under SARFAESI Act was initiated on 4.7.2016 while proceedings under Co-operative Societies Act instituted in 2002 were still pending.

d. The amount of Rs. 35,00,000/- is shown as “Advance received against sale of Land as on 31.3.2016 in the audited financial statement for the year ended on 31.3.2017 under Note. 5 thereof, which proves that the said amount of Rs. 35,00,000/- was received against sale of land and came to be adjusted after execution of conveyance documents in relation thereto in financial year 2016-17 as the amount shown as “Advance received against sale of Land as on 31.3.2017 is NIL.

e. Though, this transaction may be a case of simpliciter sale transaction of land, which may be a normal act for a corporate debtor to augment resources for its business by disposing off non-business assets while in need of financial resources, however, it is pertinent to note that the fair value of this property declared in conveyance document is Rs. 1,42,60,000/- and the Corporate Debtor is a party to said document, which is 4 times of the amount stated to have received as consideration. This clearly reflects that the said sale took place for a consideration less than its value at the time of sale even if execution of sale document after 15 months is factored into, as there can not be such phenomenal increase in the circle rate value within a span of 15 months.

f. The Applicant had estimated the value of such land to be Rs. 50,00,000/- and sought contribution for equivalent amount on the ground that the sum of Rs. 35,00,000/- was also diverted to C&M Farming Ltd. Since, it is the case of applicant that the value of land transferred for Rs. 35,00,000/- was estimated to be Rs. 50,00,000/-, it can be said that the sale transaction was undervalued by Rs. 15,00,000/-. Having said so, it is pertinent to note that the relief in respect of said transaction has been sought in terms of prayer clause (e) by seeking contribution and prayer (d) seeks declaration of carrying on business with intent to defraud creditors.

g. Section 45 of the Code defines an undervalued transaction to mean, inter-alia, the transfer of one or more assets by the corporate debtor for a consideration the value of which is significantly less than the value of the consideration provided by the corporate debtor. In the present case, the said land was purchased by the Corporate Debtor for a sum of Rs. Rs. 6,33,893/- and the sale transaction has taken place at Rs. 35,00,000/-, which is not less than the consideration provided by the corporate debtor. Further, the disclosed consideration is less than 30% of the estimated value averred by the applicant in the present application. The understatement of consideration by a 30% of estimated sale consideration can said to be significant as, in normal course of transactions as well, there is always variation in price asked by the seller and the price offered by the buyer. Accordingly, this transaction can be held an undervalued transaction in terms of section 45 of the Code. However, this transaction, even if an undervalued transaction, falls beyond look back period of one year (entered with an unrelated party) thus taking it out of Section 45 of the Code as well.

h. Though, there may be an imminent danger of action under SARFAESI Act and such transaction may have been undervalued to keep the difference between the actual consideration and disclosed consideration from the creditors, however, considering the financial affairs of the Corporate Debtor where the operations of the Corporate Debtor were funded from funds available with related parties, the sale of said land in distress can not be ruled out to augment financial resources to keep corporate debtor going. Accordingly, it can also not be held as a transaction carried out for fraudulent purpose or to keep assets away from the Creditors of the Corporate Debtor. Further, even if the said transaction is an undervalued transaction, such undervalued transaction can not be termed as a transaction carried deliberately to keep the assets beyond the reach of any person who is entitled to make a claim against the corporate debtor so as to bring it within ambit of Section 49 of the Code.

i. Nonetheless, it has been alleged that the amount of Rs. 35,00,000/- so received was transferred to C&M Farming Ltd ., a company of which Respondent No. 1 & 2 were directors. On perusal of the audited financial statements of the Corporate Debtor for the year ended on 31.3.2020 placed on record, it is noted that there is no amount receivable from C&M Farming Ltd. as on 31.3.2016 and 31.3.2017, which clearly demonstrates that either this amount of Rs. 35,00,000/- has been refunded back to the Corporate Debtor or this amount was paid to pay back amounts owed by Corporate Debtor to it. In this context, it is relevant to refer to Note 23.5 to audited financial statement of Corporate Debtor for the year ended on 31.3.2017 which shows a sum of Rs. 21,98,79,807/- due to related parties, which includes C&M Farming Ltd., as on 31.3.2017 and Rs. 20,73 56,027 as on 31.3.2016. This corroborates the reply of Respondent No. 1 & 2 stating that this amount was paid to C&M Farming Ltd. against outstanding due to it and a sum of 13,50,59,614.67 as on 31.3.2015 was still due to C&M Farming Ltd. thereafter as per ledger account enclosed with the said reply, which increased to 14,76,49,695.62. It is also relevant to note that the ledger account of C&M Farming Ltd. for the year 2015-16 has been credited on numerous for payments made on behalf of Corporate Debtor, which is far in excess of Rs. 35,00,000/- stated to have siphoned off as is evidenced from closing balance of Rs. 14,76,49,695.62 as on 31.3.2016 appearing therein clearly demonstrating that even if it is assumed that Rs. 35,00,000/- were paid to it in preference over lenders this amount stood paid back. In our considered view, such payment was towards reimbursement of payments made on behalf of Corporate Debtor as is deducible from the ledger account of C&M Farming Ltd as well as Audited Financial Statements placed on record. Accordingly, we do not find any merit in unsubstantiated allegation made in the application in respect of transfer of 35,00,000/- to C&M Farming Ltd. terming it as fraudulent.

23. **Back-dated transfer of shareholding of Corporate Debtor in Respondent Nos. 5 and 6 in favor of their daughters**

a. The Corporate Debtors its shareholding in Respondent No. 5 C&M Layer Layer Farms Private Limited and Respondent No. 6 Shivneri Farms Private Limited to the Respondent No. 3 (Michelle Elias Dsouza, daughter of Respondent No. 1) and Respondent No. 4 (Seraphine Sanjay Susainathan, the daughter of Late Elias Dsouza) in FY 2020-2021 and it is alleged that the consideration received from Respondent No. 3 and 4 was undervalued to defeat the recovery proceedings arising from final adjudication of Co-operative Case No. 1491 of 2005 and settled through amounts payable to other related parties. The entry however, is recorded in the books of Corporate Debtor on March 31, 2021. It is alleged that such transactions caused a loss of Rs. 34.20 crores to the Corporate Debtor and further the proceeds of same stood discharged through book entry resulted into a preferential payments as well to such related parties, from whose credit balances such consideration was set off.

b. It is alleged in the Application that, *after the judgment by the Co-operative Court was passed against the Corporate Debtor, Respondent Nos. 1 and Late Elias D'Souza, who were promoter Directors of the Respondent Nos. 5 and 6 along with Respondent No. 2 as the Director of the Corporate Debtor, surreptitiously transferred its investment in its 100% owned subsidiary company to Respondent Nos. 3 and 4 with the mala-fide intent to shield the valuable immovable properties held by the subsidiary companies from being resorted to by the creditors of the Corporate Debtor. The intent was clearly to avoid any precipitate action against the investment held by Corporate Debtor in its subsidiary companies in course of a recovery action by the creditors against the assets of the Corporate Debtor and in the event of insolvency of the Corporate Debtor*.

c. The consideration for transfer of these shares is stated to based on the valuation report obtained from M/s Sundae Capital Advisors Pvt. Ltd.

vide their report dated 15.04.2020 determining the value of shares in terms of Rule 11UA of the Income Tax Rules, 1962, and the valuer's fees is stated to be paid on 22.11.2021. In the said valuation report, the value of land of Respondent No. 5 has been taken as Rs. 14,78,30,770/- whereas the land held by Respondent No. 6 is valued at merely Rs. 62,16,000/-, which are alleged to be substantially lower than the ready reckoner value of land parcels owned by these two companies.

d. The filing of MGT-07 with respect to this transfer has only been made by Late Elias D'Souza on February 6, 2022 with respect to C&M Layer Farms Pvt. Ltd. and by Respondent No. 1 on February 2, 2022 with respect to Shivneri Farms Pvt. Ltd., accordingly, it has been alleged that records have been backdated to reflect a transfer in the year 2020-2021.

e. It is also stated by the applicant that, these land parcels have not even been reported in the financial statements of the Respondent Nos. 5 and 6, for the year ending March 31, 2021, and in respect of which, the auditors have noted that the Respondent No. 1 and Late Elias Dsouza were Directors in Respondent Nos. 5 and 6 during the relevant time and have deliberately, chosen not to report their fixed assets in the financial statements of the Respondent Nos. 5 and 6 with ulterior motives.

f. **Transfer of Investment in C&M Layer Farms Pvt. Ltd.**

    i. The Corporate Debtor held investments in the form of 2,34,60,000 equity shares of Rs. 10/- each in the equity share capital of C&M Layer Farms Pvt. Ltd., constituting 100% shares of such company, as per the books of Corporate Debtor as on 31.03.2020. Out of these shares, 1,17,49,881 shares were transferred to Michelle Elias Dsouza and the remaining shares i.e. 1,17,10,119 were transferred to Seraphine Sanjay Susainathan for a consideration of Rs. 0.01 per share aggregating to Rs. 2,34,600/-. The said transfer was undertaken on 20.04.2020. The valuation report dated 15.04.2020 has determined value of each shares at Rs. (-) 0.38 per share after considering the value of land held by Respondent No. 5 as Rs. 14,78,30,770/-.

ii. The Parcels of land held by the subsidiary was 49.41 hectare acres recorded in the books at cost of Rs. 1,66,20,055/- (Rupees One Crore Sixty Six Lakhs Twenty Thousand Fifty Five Only).

iii. It is stated by the Applicant that the Ready Reckoner value associated to the land held by the Subsidiary being C&M Layer Farms Pvt Ltd stood at Rs. 2548.58/- Lakhs, thus the value of the shares in C&M Layer Farms Pvt Ltd is around Rs. 4.18 (Rupees Four and Eighteen Paise) per share.

g. **Transfer of Investment in Shivneri Farms Pvt. Ltd.**

i. The Corporate Debtor held investments in the form of 21,930 equity shares of Rs. 10/- each in the equity share capital of Shivneri Farms Pvt. Ltd., constituting 100% shares of such company, as per the books of Corporate Debtor as on 31.03.2020. Out of these shares, 10,965 shares were transferred to Michelle Elias Dsouza and the remaining shares i.e. 10,965 were transferred to Seraphine Sanjay Susainathan for a consideration of Rs. 0.10 per share aggregating to Rs. 2,193/-. The said transfer was undertaken on 21.04.2020. The valuation report dated 15.04.2020 has determined value of each shares at Rs. (-) 564.93 per share after considering the value of land held by Respondent No. 6 as Rs. 62,16,000/-.

ii. The Parcels of land held by the subsidiary was 8.63 hectare acres recorded in the books at cost of Rs. 35,206/- (Rupees Thirty Five Thousand Two Hundred Six Only).

iii. It is stated by the Applicant that the Ready Reckoner value associated to the land held by the Subsidiary being Shivneri Farms Pvt Ltd stood at Rs. 872.34 Lakhs, thus the value of the shares in Shivneri Farms Pvt Ltd is around Rs. 3,108.66 ((Rupees Three Thousand One Hundred Eight and Sixty-Six Paise Only) per share.

h. The Applicant as well as the Respondent No. 1 & 2 placed on record another valuation report to demonstrate the value of land parcels owned by Respondent No. 5 and 6 at the relevant point of time to substantiate their contention in relation to correct value of shares of these companies. The parties had no quarrel on the fair value of assets, other than the land parcels, and liabilities as reported in audited financial statements for the year ended on 31.3.2020 by these companies. Accordingly, the dispute over the fair value of shares, stated to be transferred at undervalue, emerges from the fair value of land parcels owned by these two companies.

i. It is stated by the Applicant in its additional affidavit that, *with respect to the lands owned by Respondent Nos. 5 and 6, on 8th August 2025 the Applicant made an application to the Revenue Department and paid the requisite fee for obtaining the official circle rate valuations. The valuation now received from the Revenue Department, which is reflective of the official land status and rates, demonstrates that the valuation relied upon by the Respondents is grossly understated and based on incorrect and misplaced assumptions and not borne out by official records*. The Respondent No. 3 to 6 and 8 also placed on a valuation report dated 27.08.2025 in respect of land parcels owned by Respondent No. 5 and 6 at relevant times obtained from a IBBI registered valuer Ankit Anup Mohabansi, which has determined the value of these land parcels more or less similar to value determined by Mrs. Jayshree Garud relied by Sundae Capital Advisors Pvt. Ltd.

j. The Respondent No. 1 & 2 submitted that *the Respondents submitted valuation reports from an IBBI approved valuer, Ar. Ankit Anup Mohabansi filed by Respondents 3 to 6 and 8. His reports, valuing the* *lands as of 11.04.2020, also confirm a site visit and the correct application of the diminishing percentage formula for non-agricultural lands. These reports correctly identify the lands as agricultural or nonagricultural and apply a formula of diminishing rate of the land for ever addition 500 sq. area. This is a common and accepted practise among land valuers. and is consonance with 'General Guidelines with updates and corrections for the assessment of stamp duty for the year 2020-21 as per the annual value rate table of properties in all Municipal Corporation (excluding Brihanmumbai Municipal Corporation) Municipal Councils/Nagar Panchayats, Prabhat and Rural Areas in Maharashtra'.* They further submitted that *"the Applicant filed an affidavit containing a valuation from the Department that is demonstrably incorrect. It incorrectly treats certain lands as non-agricultural when they are agricultural and fails to apply the diminishing percentage formula."* The Respondents have admitted that the base rates adopted in valuation report dated 27.08.2025 and rates adopted by the Revenue Department are same, however, the Revenue Department has failed to *correctly classify the lands and apply the necessary formula.*

k. The Applicant has supported the value determined by Revenue Department contending that Pimpalgaon and Raipur land parcels owned by Respondent No. 6 are NA lands, however, the Respondents have valued them as Agriculture lands. It is further contended that Hivargaon Nimgaon and Sinnargaon land parcel(s) owned by Respondent No. 5 have to be valued in terms of Rule 23 as is done by the Revenue Department as these lands are NA Lands, and Rule 16A (Respondents clarified that Rule 16B has been stated mistakenly, it is to be read as Rule 16A) applied by the valuer engaged by Respondent No. 5 & 6 is incorrect. It is also submitted by the applicant that Respondent No. 3 to 6 & 8 in their additional affidavit have admitted that these lands are NA lands. As regards Maharjanpur land owned by Respondent No. 5, the applicant submitted that the said land is NA potential land as per admission of the Respondent No. 3 to 6 & 8 in their affidavit, accordingly, have to be valued as per Rule 16B, which has also been applied by Revenue Department.

l. We have considered the submissions of the parties in relation to valuation reports placed on record by Respondent No. 3 to 6 & 8 as well as Revenue Department's valuation placed by Applicant. The determination of ready reckoner value of land is the prerogative of Revenue Department who is responsible for adjudication of payment of correct stamp duty on transfer of immoveable property, accordingly, the ready reckoner value as determined by the revenue department placed by Applicant has to be considered reflecting correct ready reckoner value of land parcels owned by Respondent No. 5 & 6. The Respondents have also accepted the proposition that ready reckoner/circle rate is a widely used basis of determining value of land. Accordingly, we are of considered view that the value of land parcels owned by Respondent No. 5 & 6 at the relevant time has to be taken as ready reckoner value certified by Revenue Department and accordingly the shareholder's value is to be determined on that basis to arrive at correct fair value to proceed further.

m. The comparative value as determined by Sundae Capital Advisors Pvt. Ltd., a Merchant Banker (basis which alleged transfer has taken place and which relied upon valuation of land carried out by Mrs. Jayshree Garud); by M/s Ankit Anup Mohabansi a IBBI Registered valuer, engaged by Respondent No. 5 and 6 during the pendency of application, vide their report dated 27.8.2025; and on basis of ready reckoner rate(s) relevant to land parcels obtained by the Applicant as well as alleged understatement is worked out as follows :

Particulars	Value of Land Parcel(s) of Respondent no. 5 (INR)	Value of Land Parcel(s) of Respondent no. 6 (INR)
Mrs. Jayshree Garud (relied by Sundae Capital Advisors Pvt. Ltd.) – Valuation report obtained by Corporate Debtor at time of transaction – (A)	14,78,30,770/-	62,16,000/-
M/s Ankit Anup Mohabansi – Valuation report relied by Respondent 3 to 6 & 8 - (B)	12,62,52,225/-	62,00,000/-
Ready Reckoner rate as determined by Applicant vide additional affidavit dated 25.8.2025 - (C)	24,06, l0,250/-	7,80,80,000/-
Adjustment to shareholder’s value as per Applicant (C-A)	9,27,79,480/-	7,18,64,000/-
Net Shareholder value determined by Sundae Capital Advisors Pvt. Ltd.	(-) 89,87,905/-	(-) 1,23,88,884/-
Adjusted Shareholder value as per Applicant’s contention	8,37,91,575/-	5,94,75,116/-
Value per share	3.57	2712.04
Sale Price per share	0.01	0.10

Alleged under-statement per share	3.56	2711.94
Total under-statement	8,35,17,600/-	5,94,72,844/-

n. The above table clearly shows that the fair value of the shares of Respondent No. 5 and 6 company works out to Rs. 3.56 and Rs. 2711.94 per share as against the consideration paid by the Respondent No. 3 and 4 for its purchase from the Corporate Debtor @ Rs. 0.01 and Rs. 0.10 per share, which is significantly less than its fair market value, accordingly the transfer of such shares falls within the definition of Undervalued transactions in terms of Section 45 of the Code. Section 49 of the Code deals with undervalued transaction *deliberately entered into by such corporate debtor for keeping assets of the corporate debtor beyond the reach of any person who is entitled to make a claim against the corporate debtor*.

o. It is relevant to note that Co-operative Court, Nashik in CC No. 1491/2005 passed an award dated 15.2.2018 against Corporate Debtor, amongst others, requiring them to pay the principal amount of loan alongwith interest. There was an order in force against the Corporate Debtor requiring it to pay the due amount and the then Directors of the Corporate Debtor were aware that such order shall be operative against the assets not specifically mortgaged also which included the shares held by Corporate Debtor in Respondent No. 5 and 6. It is also relevant to note that the original lender was contemplating to assign the debt owed by the Corporate Debtor in 2019 itself, which despite resistance from the then management of corporate debtor could take place on 31.12.2021 with the intervention of Hon'ble High Court in terms of its order dated 3.11.2021. The valuation report relied upon by the Respondent No. 1 & 2 is dated 15.4.2020, for which the remuneration to the valuer was paid in November, 2021 against the invoice raised by such valuer in that month only. The Board of Corporate Debtor approved this transaction on 8.11.2021 and MGT 7 in relation this resolution passed in respect of transfer of shares of Respondent No. 5 and 6 was filed on 6.2.2022 and 3.2.2022 respectively. It is also relevant to note that the audited financial statements of Corporate Debtor for the financial year ended on 31.3.2020 were signed on 7.12.2020 and the directors in their report dated 7.12.2020 have acknowledged that the company had five subsidiaries, two of which were Respondent No. 5 and 6, but had not disclosed in their report subsequent events which are claimed to have taken place prior to report dated 7.12.2020. These facts clearly led to irresistible conclusion that the transaction of sale purported to have taken place in April, 2020 is back dated.

p. It is also pertinent to note that the consideration for transfer of these shares has been discharged against the credit balances lying in account of Respondent no. 3 and 4, which is created by transfer of balances from other related persons, thus no money was received in the bank of the Corporate Debtor. There have been transfer of balances of one related party to another related party to settle their accounts and create liability in name of new related parties.

q. In view of these facts, it can be concluded that the transfer of the shares held by Corporate Debtor in Respondent No. 5 and 6 was deliberately done to keep the value of assets comprised in such shares, hence, this transaction squarely falls under Section 49 of the Code. Section 49 of the Code empowers this Tribunal to restore back the position as it existed before such transaction as if the transaction had not been entered into. Accordingly, we consider it appropriate to set aside the sale of shares held by Corporate Debtor in Respondent No. 5 & 6 in favor of Respondent No. 3 & 4.

r. However, the proviso protects the interest of third person in property which was acquired from a person other than the corporate debtor and was acquired in good faith, for value and without notice of the relevant circumstances, or affect any interest deriving from such an interest. It has been pleaded by the Applicant that these land parcel(s) have not been disclosed in the audited financial statements for the year ending on March 31, 2021, it is not clear whether any third party in these land parcel(s) has been created by the Respondent No. 5 and 6. Accordingly, we consider it appropriate to clarify that this order of restoration shall not prejudice the rights of any third person in land parcel(s) who acquired the interest in land parcel(s) owned by Respondent No. 5 and 6, and such person shall be at liberty to approach this Tribunal for appropriate order to protect their interest. It is further clarified that, in such eventuality, the Respondent No. 1 to 4, jointly and severally, shall be liable to make contributions for an amount equivalent to interest of such third persons, if any determined by this Tribunal, to the Corporate Debtor within 30 days of such determination so as to protect the interest of creditors of the Corporate Debtor, who are ascertained as victims of said transfer, and the Corporate Debtor shall cede interest in the claimed property to this extent in favor of such person. Further, in case contribution is to be paid as aforesaid, the said contribution shall carry interest @ 12% p.a. on the amounts from the date of this order to the extent remaining unpaid after 30 days in terms of this order.

24. **Advances to the tune of INR 1439.36 Lakhs to Related Parties for diversion of funds from FY 2014-2015 till FY 2022-2023**

   a. The forensic Auditor has exhibited Balance sheet overview of the Corporate Debtor spanning from Financial Year 2013-14 to Financial Year 2022-23. On perusal of said statement, it is noted that the amount of Rs. 1439.36 Lakhs is stated to be due from Related Parties as on 31.3.2016 under “Loans to Related Parties” and the corresponding amount as on 31.3.2014 and as on 31.3.2023 was Rs. 1419.01 Lakhs and Rs. 1134.59 Lakhs.

b. It is also noted from said overview that the Corporate Debtor owed Rs. 2196.80 as 'Advance from Customers' and Rs. 49.30 Lakhs as 'Loans from Related Parties' (aggregating to Rs. 2246.10 Lakhs) as on 31.3.2016. Further the corresponding amounts as on 31.3.2014 and as on 31.3.2023 are stated as Rs. 1864.63 Lakhs & Rs. 49.30 Lakhs (aggregating to Rs. 1913.93 Lakhs) and Rs. Nil & 2020.54 Lakhs (aggregating to Rs. 2020.54 Lakhs).

c. Further, the financial statements for the year ended on 31.3.2017 shows that the amounts shown as 'Advance from Customers' are balances due to C&M Farming Ltd. only. Accordingly, if we consider the amounts given to related parties and received from the parties on aggregate basis as reported in all these years, the amount due to related parties exceeds the amounts due from related parties, which negates the allegation of unjust enrichment/enjoyment of money of corporate debtors and its creditors for the benefit of related parties made by Forensic Auditor and relied upon by the Applicant to make out a case of fraudulent conduct of business. These amounts due to and from related parties are duly disclosed in the audited financial statements for each year and neither any interest has been paid on amounts due to related parties nor any interest has been charged on amount due from related parties. It is also relevant to note that the Corporate Debtor had negative net-worth of Rs. 1168.47 as on 31.3.2014 as against total outstanding of Rs. 1206.04 Lakhs payable to Banks, which clearly demonstrates that the losses were funded from the bank's borrowings. These facts do not make out a case of diversion of funds to the related parties or advance to related parties without intent of recoveries as on particular date when such position have been continuing even since 2013-14 and there has been excess of aggregate amounts due from related parties to amounts due to related parties.

Accordingly, we are of considered view that the ingredients u/s 66 of the Code are not met in relation to this transaction.

25. **Transfer of operational debt of Related Parties amounting to Rs. 19.58 crores - FY 2016--2017 to FY 2017-2018 to Corporate Debtor**

a. It is alleged in the Transaction Audit Report that, during the FY 2017-18, debt from C & M Farming Ltd, a related party, were imposed onto CD through conversion of Operation Debt in to Financial Debt by the management to the tune INR 1958.90 Lakhs.

b. The audited financial statements of Corporate Debtor for the year 2016-17 shows that the amount due to C&M Farming Ltd. was classified as 'Advance from Customers' in the year upto 31.3.2017. The Transaction Auditor has cited a journal entries passed in Month of April, 2017 whereby an aggregate sum of Rs. 22,53,99,222.62 has been credited to accounts of other related parties and debited to account of C&M Farming Ltd. This had the effect of reducing the balance in the account of C&M Farming Ltd. substantially to Rs. 31,776/- only.

c. The Transaction Auditor has alleged that "*These fictitious imposition of loan may have been made with intent siphon off the assets from the CD which could have not been materialized. However the same given the false impression that any additional funds have been infused by the management in the CD. Furthermore, loans were never availed by the CD hence such imposition on to CD seems to potentially against the interest of the CD. Furthermore, these adjustment entries also resulted in the repayment of operational debt over the priority to" Financial Institution.*"

d. On perusal of the ledger account of C&M Farming Ltd. for the year 2015-16 placed on record, it is noted that the said ledger account has been credited on numerous for payments made on behalf of Corporate Debtor and the sale transactions are miniscule, so as to justify characterization of balance owned to C&M Farming Ltd. as 'Advance from Customers' which the Corporate Debtor did till financial year 2016-17. It is case of incorrect classification of balances owed to it, which in our considered view were substantially in nature of loan only. It appears to us that neither the Forensic Auditor nor the Applicant has carefully examined the books of accounts of the Corporate Debtor to understand the nature of transactions in the ledger of C&M Farming Ltd. These journal entries only transfer balance from one related party to another related party. If we look at the Balance Sheet as on 31.3.2018, this resulted in increase in 'Loans from related parties' from Rs. 49.30 Lakhs to Rs. 2008.20 and corresponding reduction in 'amount due to customers' from Rs. 2253.99 Lakhs to Rs. 12.52 Lakhs. The balances due to the related parties do not entitle such related parties a share in CoC, the details of such balances is clearly reflected in the audited financial statements as can be made out from financial statements for the year ended on 31.3.2020 placed on our record, where the positions remains more or less static. These journal entries have neither caused any further loss to the Corporate Debtor nor it has resulted into any fraud towards its creditors. Accordingly, the necessary ingredients for Section 66 are not attracted in case of this transaction, hence, no order can be passed in terms of Section 66 of the Code.

26. Write off of receivables from (i) Obasanjo Farms Nigeria Ltd. amounting to Rs. 1,98,96,258/- and (ii) Mr. Mukund Kokil amounting to Rs. 22.91 Lakhs during FY 2019-2020 to 2020-2021

a. Obasanjo Farms Nigeria Ltd. is not classified as Related Party either in the audited financial statement for the year ended on 31.3.2020 nor by the Applicant. The balance due from it was written off as bad debt on 31.3.2020. It is stated by the Respondent No. 1 and 2 in their reply that "*The transactions are of 2006, as is clear from the excerpt contained in the Audit Report, recording that the receivables go back to July/August 2006. By efflux of time and in light of non-payments, it became necessary* *to write off the debt. This is an accepted accounting practice.*" The Applicant has stated in its rejoinder that "*As far as bad debts are concerned since the transactions date back to the year 2006 and the erstwhile management knew that the same were not recoverable since many years, yet they continued to show the same as debtors and also no provision was made in the accounts clear show that the accounts of the corporate debtors have not been maintained in a proper manner and have not followed proper accounting policies and accounting standards and thus do not reflect the true position of the affairs of the corporate debtor as on the reporting dates in various financial years since 2006-07. In fact prudent accounting norms stipulate that if an asset is impaired or not recoverable then the same must be written off immediately and/or a provision in respect thereof is required to be made but neither has been done for almost 14 years.*" The rejoinder of the Applicant clearly demonstrates that the applicant has not disputed that the balances recoverable date back to 2006, however, it has disputed the explanation on the ground that the Suspended Board failed to make appropriate provision for its non-recoverability well in time, which is against the accounting standards thereby the financial statements not reflecting the true position of the affairs of the corporate debtor. Be that as it may be, the overstatement of assets and profitability of an enterprise which may be termed as incorrect presentation of financial statements, but it can not be termed as causing any further loss to the Corporate Debtor or resulting into any fraud towards its creditors, more so when this transaction took place after the account of Corporate Debtor had already been classified as NPA. The applicant has not doubted the transaction with this party. It has also not been alleged that this amount has been diverted by the Suspended Board by receiving the same in some other account. A write off of debt does not discharge the debtor and the amount remains recoverable. Accordingly, the necessary ingredients for Section 66 are not attracted in case of this transaction, hence, no order can be passed in terms of Section 66 of the Code.

b. The amount recoverable from Mr. Mukund Kokil amounting to Rs. 22.91 Lakhs was written off as bad debt on 24.7.2020. It is stated by the Respondent No. 1 and 2 in their reply that "(i)……..*the amount was not a loan, but an allowance for business expenses paid for services provided by Mr. Kokil to the CD. (ii) Since it was an allowance and not a loan, there was no obligation for repayment. (iii) The Applicant incorrectly and without basis labeled the transaction as a "related party transaction". This is a denied claim and appears to be a deliberate attempt to mislead the Tribunal. (iv) The transaction is older than 2006.*" The Applicant has stated in its rejoinder as already reproduced in the preceding para. In the application also, it has merely been stated that "*Similarly, loan given to a related party, Mr. Mukund Kokil to the tune of Rs. 22.91 Lakhs was written off without in an unjustified and questionable manner by merely, passing journal entry.*" The Transaction Auditor in his report has not classified it as a Related Party. Further, the audited financial statements for the year ended 31.3.2020 does not classify this person as a related party as is noted from note no. 21 thereof. The rejoinder of the Applicant clearly demonstrates that the applicant has not disputed that the balances recoverable date back to 2006, however, it has disputed the explanation on the ground that the Suspended Board failed to make appropriate provision for its non-recoverability well in time, which is against the accounting standards thereby the financial statements not reflecting the true position of the affairs of the corporate debtor. Be that as it may be, it is case of deferment of accounting of expenditure to overstate the profitability of an enterprise, which may be termed as incorrect presentation of financial statements, but it can not be termed as causing any further loss to the Corporate Debtor or resulting into any fraud towards its creditors, more so when this transaction took place after the account of Corporate Debtor had already been classified as NPA. It has also not been alleged that this amount has been diverted by the Suspended Board by receiving the same in some other account. A write off of debt does not discharge the debtor and the amount remains recoverable. Accordingly, the necessary ingredients for Section 66 are not attracted in case of this transaction, hence, no order can be passed in terms of Section 66 of the Code.

27. To sum up, the sale of shares held by Corporate Debtor in Respondent No. 5 & 6 in favor of Respondent No. 3 & 4 set aside in terms of para 23.q r/w 23.r. Further, no order is passed in relation to the remaining transactions impugned in the Application.

28. In terms of the above, IA 623 of 2025 is partly allowed and IA 909 of 2025 is rendered infructuous.

-Sd/-
Prabhat Kumar
Member (Technical)

-Sd/-
Sushil Mahadeorao Kochey
Member (Judicial)