

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH : COURT-IV**

IA-1074/2023 IN C.P.(IB)-68/(MB)/2021

Under Section 43 of the Insolvency and
Bankruptcy Code, 2016.

Application moved by:

Bhrugesh Amin

Resolution Professional of Modella Textile
Industries Limited ... **Applicant/RP**

Vs.

Mr. Kesharmal Nensukhlal

Gandhi & Ors. ... **Respondents**

In the matter of

Beacon Trusteeship Limited

... Financial Creditor

Vs.

Modella Textile Industries Limited

... Corporate Debtor

Order Pronounced on : **09.01.2024**

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant(s)

: Ms. Mitali Bhatt a/w Priyank Jadav i/b
AKR Legal, Advocates.

For the Respondent Nos.2 & 3 : Mr. Aditya Bapat a/w Ms. Abha Patel i/b
MDP & Partners, Adv.

ORDER

Per: Prabhat Kumar, Member (Technical)

1. The present Application IA-1074/2023 is filed on 17.03.2023 by the Applicant/Resolution Professional (RP), Mr. Bhruvish Amin, under Section 43 of the Insolvency and Bankruptcy Code, 2016 ("Code") seeking following reliefs:
 - a) *“Consider the present application IA-1074/2023 under Section 43 of IBC, 2016;*
 - b) *Direct the Respondents to make such contributions to the Corporate Debtor aggregating to sum of Rs.3,21,70,651/- each such Respondents jointly and equally, as stated in this Application with regard to the financial benefit extended by way of preferential treatment to related parties creditors and other creditors which falls within the look back period in terms of section 43 of the Code;*
 - c) *Pass appropriate directions/orders in terms of Section 44, of the Code including for recovery/restoration of legitimate amount due to the Corporate Debtor;*
 - d) *Issue orders that recovery, if any, made pursuant to this Application, shall form part of the liquidation estate as per section 36 of the Code and shall be exclusive right of the CoC/stakeholders of the Corporate Debtor.*
 - e) *Impose such fine under Section 71, 72 and 73 of the Code upon the Respondents as this Hon’ble Tribunal may deem fit;*
 - f) *And for such other/further order(s) and/or direction (s) as the facts and circumstances of the case may warrant.*
2. The Applicant submits that the application for the Corporate Insolvency Resolution Process (CIRP) was filed by Beacon Trusteeship Limited in the matter of Corporate Debtor i.e. Modella Textile Industries Limited under

Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, was admitted by the Hon'ble National Company Law Tribunal, Mumbai Bench vide order dated 04 May 2022 and Bhrugesh Amin was appointed as the Interim Resolution Professional ("IRP").

3. Pursuant to receipt of claims, the IRP constituted a Committee of Creditors ("**COC**") comprising of all the financial creditors in accordance with Section 21(1) of the Code in compliance with Regulation 17 and 13(1)(d) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016.
4. The Applicant submits that during the course of CIRP, transaction auditor viz. Nangia & Co LLP was appointed to undertake the transaction audit of the books of the Corporate Debtor for the period from 05 May 2020 to 04 May 2022 (insolvency commencement date).
5. Subsequently, the Transaction auditors have filed their Transaction Audit Report dated 10 March 2023 which provides sufficient reasons to believe that the Respondents has undertaken certain preferential transactions with an intent to defraud the creditors which are covered under the provisions of Section 43 of the Code.

TRANSACTIONS UNDERTAKEN BY THE RESPONDENTS THROUGH THE CORPORATE DEBTOR WHICH ARE CLASSIFIED WITHIN THE MEANING OF SECTION 43 OF THE CODE - PREFERENTIAL TRANSACTIONS:

6. The Applicant submits it is relevant to note the provisions of section 43 of the Code which is reproduced hereunder:

"Section 43. Preferential transactions and relevant time

(1) Where the liquidator or the resolution professional, as the case may be, is of the opinion that the corporate debtor has at a relevant time given a preference in such transactions and in such manner as laid down in sub-section (2) to any persons as referred to in sub-section (4), he shall apply

to the Adjudicating Authority for avoidance of preferential transactions and for, one or more of the orders referred to in section 44.

(2) A corporate debtor shall be deemed to have given a preference, if-

(a) there is a transfer of property or an interest thereof of the corporate debtor for the benefit of a creditor or a surety or a guarantor for or on account of an antecedent financial debt or operational debt or other liabilities owed by the corporate debtor; and

(b) the transfer under clause (a) has the effect of putting such creditor or a surety or a guarantor in a beneficial position than it would have been in the event of a distribution of assets being made in accordance with section 53.

(3) For the purposes of sub-section (2), a preference shall not include the following transfers-

(a) transfer made in the ordinary course of the business or financial affairs of the corporate debtor or the transferee;

(b) any transfer creating a security interest in property acquired by the corporate debtor to the extent that -

(i) such security interest secures new value and was given at the time of or after the signing of a security agreement that contains a description of such property as security interest, and was used by corporate debtor to acquire such property; and

(ii) such transfer was registered with an information utility on or before thirty days after the corporate debtor receives possession of such property:

Provided *that any transfer made in pursuance of the order of a court shall not, preclude such transfer to be deemed as giving of preference by the corporate debtor.*

Explanation. – For the purpose of sub-section (3) of this section, “new value” means money or its worth in goods, services, or new credit, or release by the transferee of property previously transferred to such transferee in a transaction that is neither void nor voidable by the liquidator or the resolution professional under this Code, including proceeds of such property, but does not include a financial debt or operational debt substituted for existing financial debt or operational debt.

(4) A preference shall be deemed to be given at a relevant time, if –

(a) It is given to a related party (other than by reason only of being an employee), during the period of two years preceding the insolvency commencement date; or

(b) a preference is given to a person other than a related party during the period of one year preceding the insolvency commencement date.”

7. The Applicant submits that the Hon'ble Supreme Court in the case of **Anuj Jain Interim Resolution Professional for Jaypee Infratech Limited Vs. Axis Bank Limited & Ors. Civil Appeal Nos.8512-8527 of 2019** has carved out a process to be followed while scrutinising a transaction and for it to be concluded as a “preferential transaction”. The relevant para 20 of the Hon'ble Supreme Court's order in JIL is extracted herein-below for ease of reference:

*“20. The analysis foregoing leads to the position that in order to find as to whether a transaction, of transfer of property or an interest thereof of the corporate debtor, falls squarely within the ambit of Section 43 of the Code, ordinarily, **the following questions shall have to be examined in a given case:***

(i). As to whether such transfer is for the benefit of a creditor or a surety or a guarantor?

(ii). *As to whether such transfer is for or on account of an antecedent financial debt or operational debt or other liabilities owed by the corporate debtor?*

(iii). *As to whether such transfer has the effect of putting such creditor or surety or guarantor in a beneficial position than it would have been in the event of distribution of assets being made in accordance with Section 53?*

(iv). *If such transfer had been for the benefit of a related party (other than an employee), as to whether the same was made during the period of two years preceding the insolvency commencement date; and if such transfer had been for the benefit of an unrelated party, as to whether the same was made during the period of one year preceding the insolvency commencement date?*

(v) *As to whether such transfer is not an excluded transaction in terms of sub-section (3) of Section 43?*

21. *Having taken note of the salient features of Section 43 of the Code and the questions germane for its applicability over any transaction, we may now examine the questions calling for determination in these appeals. **Obviously, if the transactions in question are to fall squarely within the mischief of Section 43, they must satisfy all the specifications and ingredients of sub-sections (2) and (4) of Section 43 and ought not to be within the exclusion provided in sub-section (3) thereof.***

(emphasis supplied)

8. The Applicant submits that after keeping the above parameters in mind the following transaction clearly falls within the provisions of section 43 of the Code and the same ought to be held as such in terms of provisions of section 44 of the Code.
9. It is relevant to note that the look back period as applicable to the present case considering the provisions of the Code is 05 May 2020 till 04 May 2022

(in case of related party transactions) and 05 May 2021 till 04 May 2022 (in case of transactions with parties other than related parties)

10. **Transaction 1: Adjustment of Creditors and Customer Balances amounting to Rs.76,70,000/- in the account of M/s. Guju Ads**

Applicant's Case:

10.1. The Applicant submits that as per the books of account of the Corporate Debtor, M/s Guju Ads had an opening credit balance of Rs.76,70,000/- as on 05 May 2020. The above amount was adjusted by the Respondents transferring the same in to the account of Nirmal Developers, thereby reducing the balance payable to M/s Guju Ads and increasing the balance payable to Nirmal Developers.

10.2. The Applicant submits that in case if above adjustment had not been done then M/s Guju Ads would have a payable balance of Rs.76,70,000/- in the Books of Account of the Corporate Debtor and would have been paid as per the Order of Priority laid out in Section 53 of the Code.

10.3. The Applicant submits that the management has not provided any explanations as to the reason for conducting the transactions through a separate entity and the purpose of the transactions. The details of each such transaction from internal para no 7.1(1)(b) at Page 13 of the transaction audit report annexed to this Application.

11. **Transaction 2: Adjustment of Creditors and Customer Balances amounting to Rs.5,03,000/- in the account of Nirmal Lifestyle Developers Private Limited (NLDPL)**

Applicant's Case:

11.1. The Applicant submits that NLDPL and the Corporate Debtor have a common director, Mr. Chandrakant Hiralal Shah (Respondent No. 2) since September 2013.

- 11.2. The Applicant submits that as per the books of account of the Corporate Debtor, NLDPL had an opening credit balance of Rs.5,03,000/- as on 05 May 2020.
- 11.3. The Applicant submits that the above balance of Rs.5,03,000/- was adjusted by transferring to Nirmal Lifestyle Limited (“NLL”) on 31 March 2021 thereby reducing the balance payable to NLDPL and increasing the balance payable to NLL.
- 11.4. The Applicant submits that in case if the above adjustment had not been made then NLDPL would have a credit balance of Rs.5,03,000/- in the Books of Account of the Corporate Debtor and would have been paid as per the Order of Priority stated in Section 53 of the Code.
- 11.5. The Applicant submits that the management has not provided any explanations as to the reason for conducting the transactions through a separate entity and the purpose of the transactions. The details of each such transaction from internal para no 7.1(1)(c) at Page 13 of the transaction audit report annexed to this Application.
12. **Transaction 3: Adjustment of Creditors and Customer Balances amounting to Rs.22,60,070/- in the account of Nirmal Lifestyle Mulund Private Limited (NLMPL)**

Applicant’s Case:

- 12.1. The Applicant submits that NLMPL and the Corporate Debtor have a common director, Mr. Chandrakant Hiralal Shah (Respondent No. 2) since May 2015.
- 12.2. The Applicant submits that as per the books of account of the Corporate Debtor, NLMPL had an opening credit balance of Rs.7,93,06,594/- as on 5 May 2020.
- 12.3. The Applicant submits that the following adjustments were made by the Respondents:
1. An amount of Rs. 20,62,200/- was adjusted with Nirmal Lifestyle (Kalyan) Private Limited; and

2. An amount of Rs.1,97,870/- was adjusted Nirmal Manor Private Limited (NMPL).

12.4. The Applicant submits that an amount of Rs.7,70,46,524/- is payable to NLMPL as on 04 May 2022.

The Applicant submits that in case if the above adjustment had not been made then NLMPL would have a credit balance of Rs.7,93,06,594/- in the Books of Account of the Corporate Debtor and would have been paid as per the Order of Priority stated in Section 53 of the Code.

12.5. The Applicant submits that the management has not provided any explanations as to the reason for conducting the transactions through a separate entity and the purpose of the transactions. The details of each such transaction from internal para no 7.1(1)(d) at Page 14 of the transaction audit report annexed to this Application.

13. Transaction 4: Adjustment of Creditors and Customer Balances amounting to Rs.1,60,000/- in the account of Nirmal Lifestyle Realty Private Limited (NLRPL)

Applicant's Case:

13.1. The Applicant submits that NLRPL and the Corporate Debtor have a common director, Mr. Chandrakant Hiralal Shah (Respondent No. 2) since August 2013.

13.2. The Applicant submits that as per the books of account of the Corporate Debtor, NLRPL had an opening credit balance of Rs.1,60,000/- as on 5 May 2020.

13.3. The Applicant submits that the above balance of Rs.1,60,000/- was transferred to Nirmal Lifestyle Limited on 31 March 2021 thereby reducing the balance payable to NLRPL and increasing the balance payable to NLL.

13.4. The Applicant submits that in case if the above adjustment had not been made then NLRPL would have a credit balance of Rs.1,60,000/- in the Books of Account of the Corporate Debtor and would have been paid as per the Order of Priority stated in Section 53 of the Code.

13.5. The Applicant submits that the management has not provided any explanations as to the reason for conducting the transactions through a separate entity and the purpose of the transactions. The details of each such transaction from internal para no 7.1(1)(e) at Page 15 of the transaction audit report annexed to this Application.

14. Transaction 5: Adjustment of Creditors and Customer Balances amounting to Rs. 85,19,924/- in the account of Nirmal Lifestyle (Kalyan) Private Limited (NLKPL)

Key Findings:

14.1. The Applicant submits that NLKPL and the Corporate Debtor have a common director, Mr. Chandrakant Hiralal Shah (Respondent No. 2), since August 2013.

14.2. The Applicant submits that as per the books of account of the Corporate Debtor, NLKPL had an opening debit balance of Rs.84,52,941/- as on 05 May 2020. The following adjustments were made to the account so as to give preference to other creditors especially the related parties i.e. NLMPL and NMPL:

#		Particulars	Amount adjusted in INR
1	Opening	As on 5 May 2020 (Debit)	84,52,941
2	Add	Force Security Service	66,983
		Total Debits	85,19,924
3	Less	Shree Samarth Geotechnic	1,11,787
4	Less	Shree NM Electricals Limited	48,616
5	Less	Nirmal Lifestyle Mulund Private Limited	20,62,200
6	Less	Jitendra Patel	1,00,000
7	Less	Soma Patra	3,10,000
8	Less	Nirmal Manor Private Limited	58,87,321
		Total Credits	85,19,924
		Closing Balance as on 31 March 2022	-

14.3. The Applicant submits that the management has not provided any explanations as to the reason for adjusting and giving preferences to the other unsecured related party creditors by utilising the funds receivable from NLKPL. This is nothing else but a clear case of preferential transaction. The details of each such transaction from internal para no 7.1(1)(a) at Page 12 of the transaction audit report annexed to this Application.

15. **Transaction 6: Adjustment of Account of Nirmal Manor Private Limited (NMPL) amounting to Rs.89,94,060.29/- (Rs.87,74,921.29/- + Rs.2,19,139/-) by the Respondents**

Applicant's Case:

15.1. The Applicant submits that NMPL and the Corporate Debtor have the same registered address as per MCA.

15.2. The Applicant submits that NMPL had an opening debit balance of Rs.26,45,14,479/- as on 05 May 2020. As can be seen from the ledger of NMPL annexed to this application, it is seen that only a sum of Rs 10,63,600/- was received by the Corporate Debtor.

15.3. It is evident from the ledger that NLMPL being a related party of the Corporate Debtor further was treated in preference by way of a journal entry of Rs. 1,97,870/-.

15.4. The Applicant submits that the following parties where the Corporate Debtor had a receivable balance was adjusted in the account of NMPL during the review period:

Particulars	Amount adjusted in INR
Nirmal Lifestyle (Kalyan) Pvt Ltd	58,87,321.29
Payment made to Nirmal Manor from Union Bank of India (Net)	28,56,400.00
Nirmal Construction Co.	31,200.00
Total	87,74,921.29

The above is also evident from the ledger account of NMPL as maintained by the Corporate Debtor which is annexed to this Application.

15.5. The Applicant submits that in case if the said adjustment was not done by the Respondents, in that case Rs. 87,74,921.29/- would have been receivable from the above parties as on 05 May 2020 and NMPL would have debit balance for Rs. 26,45,14,479/- in the Books of account of the Corporate Debtor.

15.6. The Applicant submits that the following parties where Corporate Debtor had a payable balance were adjusted against NMPL during review period:

Particulars	Amount adjusted in INR
PMD Infrastructure and Development	10,000.00
R C Jain & Associates LLP	11,269.00
Nirmal Lifestyle Mulund Private Limited	1,97,870.00
Total	2,19,139.00

15.7. The Applicant submits that the above creditors were adjusted in the Books of Account of the Corporate Debtor via NMPL. The Applicant submits that in case if the said adjustment was not done by the Respondents, in that case the above parties would have credit balances in the Books of Account of the Corporate Debtor and would have been paid as per the Order of Priority stated in Section 53 of the Code.

15.8. The Applicant submits that the management has not provided any explanations as to the reason for conducting the transactions through a separate entity and the purpose of the transactions. The details of each such transaction from internal para no 7.1(2) at Page 15 of the transaction audit report annexed to this Application.

16. Transaction 7: Adjustment of Account of Nirmal Lifestyle Limited (NLL) amounting to Rs.40,63,597/- (Rs.17,91,101/- + Rs.22,72,496/-) by the Respondents

Applicant's Case:

16.1. The Applicant submits that NLL is a shareholder in the Corporate Debtor holding 49.87% shares of the Corporate Debtor as per Audited Financial Statements of the Corporate Debtor for FY 2021-22.

16.2. The Applicant submits that NLL had an opening debit balance of Rs.60,74,77,625/- (receivable) as on 05 May 2020. Thereafter, balances

from parties were adjusted with the account of NLL in the books of the Corporate Debtor. Certain parties from which the Corporate Debtor had a receivable balance were debited to NLL. Similarly, certain parties to which the Corporate Debtor owed money were adjusted in the account of NLL.

16.3. The Applicant submits that the following parties where the Corporate Debtor had a receivable balance was adjusted in the account of NLL during the review period:

Particulars	Amount adjusted in INR
Gracious Communication Private Limited	11,57,285.00
Green Space Alliance	4,03,560.00
Payments from Bank Account	2,04,364.00
Pollucon Enviro Engg Private Limited	19,861.00
Ravi Enterprises	4,455.00
Vijay Civil Work	1,576.00
Total	17,91,101.00

16.4. The Applicant submits that in case if the said adjustment was not done by the Respondents, in that case Rs.17,91,101/- would have been receivable from the above parties and Rs.60,74,77,625/- from NLL as on 05 May 2022 in the Books of account of the Corporate Debtor.

16.5. The Applicant submits that the Following are the parties where the Corporate Debtor had a payable amount as on 5 May 2020 which were adjusted against NLL:

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Particulars	Amount adjusted in INR
GST Expenses	500.00
S. A. Tax A Y 2020-21	1,000.00
Income Tax	2,000.00
Atharva A. Dandekar	10,000.00
Enviro Policy Research India Private Limited	12,383.00
S D Xerox	28,941.60
R C Jain & Associates LLP	31,270.00
Om Enterprises	45,430.00
Soma Patra	50,000.00
Balaji Enterprises – Levelling	63,923.00
Nishikant Power-House	88,028.00
Selecto Traders	1,16,551.00
Nirmal Lifestyle Realty Private Limited	1,60,000.00

Particulars	Amount adjusted in INR
Anita Ashok Dusankar	2,00,000.00
TDS on Consulting @ 10% Company	2,11,864.00
Flora Marble	2,47,605.97
Ritu Medicals	5,00,000.00
Nirmal Lifestyle Developers Private Limited HO	5,03,000.00
Total	22,72,496.57

16.6. The Applicant submits that the above creditors were adjusted in the Books of Account of the Corporate Debtor via Nirmal Lifestyle Limited (NLL). The Applicant submits that in case if the said adjustment was not done by the Respondents by giving preference to the creditors over the secured financial creditors, in that case the above parties would have credit balances in the Books of Account of the Corporate Debtor and would have been paid as per the Order of Priority stated in Section 53 of

the Code and wait in the que while the receivable from related party i.e. NLL would have been higher by the said amount.

16.7. The Applicant submits that the management has failed to provide genuine explanations as to the reason for conducting the transactions through a separate entity and the purpose of the transactions except for providing vague responses. The details of each such transaction from internal para no 7.1(3) at Page 17 of the transaction audit report annexed to this Application.

17. We have heard the Learned Counsel and perused the material available on record.

17.1. We find that the Applicant has pleaded relief u/s 43 of the Code in relation to the transactions with the related parties, whereby the balances receivable/payable from/to other parties have been adjusted in the account of such related parties. Effectively, the Applicant has prayed for restoration of position, as it would have existed, prior to such adjustments.

17.2. In some cases, we find that balance of one creditor has been transferred to another creditor, who is a related party. This transfer does not result into any priority being given to such creditor, as it rather result into consolidation of two creditors in one single creditor, having no impact in distribution of liquidation estate in terms of Section 53 of the Code, as far as Creditors other than such creditors are concerned. Hence, it can not be said that such creditor has been placed in a beneficial position than it would have been in the event of a distribution of assets being made in accordance with section 53.

17.3. Similarly, in case where the related party had the debit balance and debit balance of other party has been transferred to it, it also result into consolidation of receivable, having no bearing, whatsoever, on the priority u/s 53 of the Code. Hence, the provisions of Section 43 can not be invoked. Further, a debit balance does not constitute antecedent debt.

17.4. It is only in case the debit balance of a party is set off against the creditor's balance, it can be said that such creditor has been placed in a

beneficial position than it would have been in the event of a distribution of assets being made in accordance with section 53. In view of this we hold as follows –

- a. The amount of Rs. 76,70,000/- payable to M/s Guju Ads adjusted by the Respondents by transferring the same in to the account of Nirmal Developers, thereby reducing the balance payable to M/s Guju Ads and increasing the balance payable to Nirmal Developers does not fall within the ambit of Section 43 of the Code.
- b. The balance of Rs.5,03,000/- adjusted by transferring to Nirmal Lifestyle Limited (“NLL”) on 31 March 2021 thereby reducing the balance payable to Nirmal Life Developers Private Limited which had the effect of increasing the balance payable to NLL does not fall within the ambit of Section 43 of the Code.
- c. An amount of Rs. 20,62,200/- receivable from Nirmal Lifestyle (Kalyan) Private Limited and an amount of Rs.1,97,870/- receivable from Nirmal Manor Private Limited (NMPL) transferred to M/s Nirmal Lifestyle Mulund Private Limited, which had the effect of reducing the amount payable to M/s Nirmal Lifestyle Mulund Private Limited is a transaction falling within the ambit of Section 43, as it tantamount to payment against antecedent debt by transferring debtors to Nirmal Lifestyle Mulund Private Limited in priority of other creditors putting it in advantageous position. The said transaction of adjustment can not said to be in ordinary course of business.
- d. The credit balance of Rs.1,60,000/- Nirmal Lifestyle Reality Private Limited transferred to Nirmal Lifestyle Limited on 31 March 2021 which had the effect of reducing the balance payable to Nirmal Lifestyle Reality Private Limited and increasing the balance payable to NLL does not fall within the ambit of Section 43 of the Code.
- e. The adjustment of debit balance of Rs.84,52,941/- as on 05 May 2020 of Nirmal Lifestyle (Kalyan) Private Limited against the

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following credit balances has the effect payment against antecedent debt by transferring amount receivable from it to pay off the credit balances in priority of other creditors putting it in advantageous position. The said transaction of adjustment cannot said to be in ordinary course of business. Accordingly, the following transaction of transfer of balances are ordered to be set aside and reversed in the books of account of Corporate Debtor.

#		Particulars	Amount adjusted in INR
1	Opening	As on 5 May 2020 (Debit)	84,52,941
2	Add	Force Security Service	66,983
		Total Debits	85,19,924
3	Less	Shree Samarth Geotechnic	1,11,787
4	Less	Shree NM Electricals Limited	48,616
5	Less	Nirmal Lifestyle Mulund Private Limited	20,62,200
6	Less	Jitendra Patel	1,00,000
7	Less	Soma Patra	3,10,000
8	Less	Nirmal Manor Private Limited	58,87,321
		Total Credits	85,19,924
		Closing Balance as on 31 March 2022	-

- f. The debit balance of Rs. 87,74,921.29/- of three parties, listed under Transaction No. 6 above having effect of increasing the debit balance of Nirmal Manor Private Limited does not fall within ambit of Section 43 of the Code, as one debit balance has been transferred to another debtor account and no antecedent debt came to be discharged.
- g. The balances receivable from other parties transferred to account of Nirmal Lifestyle Limited, already having debit balance, does not fall within ambit of Section 43 of the Code, as one debit balance has been transferred to another debtor account and no antecedent debt came to be discharged. However, the transfer of credit balances of other parties to

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account of Nirmal Lifestyle Limited had the effect of putting such parties in advantageous position and the some of the transaction of adjustment cannot said to be in ordinary course of business. Accordingly, the transaction with Selecto Traders for a sum of Rs. 1,16,551.00, Nirmal Lifestyle Realty Private Limited for a sum of Rs. 1,60,000.00, Flora Marble for a sum of Rs. 2,47,605.97, Ritu Medicals for a sum of Rs. 5,00,000.00, Nirmal Lifestyle Developers Private Limited for a sum of Rs. 5,03,000.00 has the effect of payment to these parties by setting off of their credit balances with the debtor Nirmal Lifestyle Limited. Accordingly, these transactions are ordered to be avoided and reversed.

18. In view of the foregoing, IA-1074 of 2023 is **disposed of** as **partly allowed**.

Sd/-
PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-
KISHORE VEMULAPALLI
MEMBER (JUDICIAL)

09.01.2024