IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-IV

I.A. (I.B.C)/459(ND)2025
IN
COMPANY PETITION (IB)- 193/ND/2024

IN THE MATTER OF:

TECHNICOLOUR DREAM PANTS PVT. LTD.

...APPLICANT/CORPORATE DEBTOR

AND IN THE MATTER OF:

RAKESH KUMAR JAIN

...APPLICANT/RESOLUTION PROFESSIONAL

VERSUS

1. **Ms. Sabena Puri**
   DIN: 07134887
   (Suspended Director of CD)
   A- 187, New Friends Colony,
   New Delhi- 110025

...Respondent No. 1

2. **Ms. *Varez* Kersi Dardlna**
   DIN 00632204
   (Suspended Director of CD)
   20, Palace Court, 1 Kyd Street, Kolkata -700016

...Respondent No. 2

CORAM:
SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)
SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

Order Delivered on: 12.11.2025

PRESENT:

For the Applicant/RP	:	Mr. Manoj Kumar Garg, Adv. Mr. Vishal K. Chaurasia, Adv. along with Mr. Rakesh Kumar Jain, RP in person
For The Respondent	:	Ms. Varsha Banerjee Mr. Vishawjeet Singh

ORDER

PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (J)

1. The present Application has been filed by the RP of M/s. Technicolour Dream Pants Private Limited ("Corporate Debtor") under Section 45 of IBC, 2016 read with Section 19 (2) of IBC,2016 for issuance of necessary directions to the Suspended Directors of the Corporate Debtor with the following prayers:

> *"1. Issue necessary directions in terms of Section 45 of IBC against the Suspended Directors for committing undervalued transactions in terms of selling assets of the Corporate Debtor at a throw away price without getting proper valuation; and/or.*
>
> *2. Pass such other order/ directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case."*

2. **Brief facts of the Case as averred by the Applicant are as follows:**

a. The Corporate Debtor, Technicolour Dream Pants Private Limited (TDPPL), was incorporated on 21 April 2015 and was initially engaged in the business of renting luxury garments. Subsequently, it diversified into manufacturing and trading of garments. The company suffered losses due to mismanagement arising from the absence of its founding director, who was residing in the United States, along with high operational costs and the impact of the COVID-19 pandemic. Consequently, TDPPL filed a petition under Section 10 of the Insolvency and Bankruptcy Code, 2016 before the Hon'ble NCLT, Delhi, which was admitted on 13 August 2024, and the undersigned was appointed as the Interim Resolution Professional on the same date.

b. The present Application has been preferred upon discovery by the Resolution Professional that multiple transactions of an undervalued nature appear to have been affected by the suspended Directors and/or promoters of the Corporate Debtor, *Technicolour Dream Pants Private Limited (TDPPL)*, on 31.12.2023, as reflected in the tally data and financial records of the Corporate Debtor.

c. That the Corporate Debtor is a closely held private limited company, which has remained non-operational since March 2023. The affairs of the company were grossly mismanaged, resulting in substantial financial losses. It is further submitted that the registered office of the company was being maintained at a rental cost of ₹6,00,000/- per month, which continued even during the COVID-19 period, despite the fact that the Corporate Debtor was engaged primarily in online business activities, for which such a high-rental office premises was neither required nor justified.

d. It is further submitted that the salaries paid to the employees were disproportionately high and not commensurate with the company's financial performance. For instance, one of the suspended directors, Mr. Sanchit Baweja, was drawing a salary of ₹3,75,000/- per month. It is believed that there were several other employees receiving similarly excessive remuneration, though the Resolution Professional is not presently aware of their names.

e. It is also pertinent to note that the revenue generated by the company was grossly insufficient to meet its operational expenses, thereby causing continued losses. As per available records, the company incurred an expenditure of ₹25,82,082/- towards sales promotion, against which the total revenue generated during the period from 01.04.2023 to 12.03.2024 was only ₹29,11,741/-. Such disproportionate expenditure, without corresponding revenue, prima facie indicates siphoning and diversion of funds from the Corporate Debtor.

f. That the Corporate Debtor was statutorily obligated to file its Annual Accounts and Annual Returns for the financial years ended 31.03.2021 and 31.03.2023, as well as the corresponding Income Tax Returns. Due to the gross negligence of the suspended Directors in discharging their statutory and managerial duties, the Resolution Professional has received a claim amounting to ₹78,50,325/-. It is further submitted that the GST Department has passed an *ex-parte* order imposing the aforesaid liability on the Corporate Debtor. Had the suspended Directors or their authorized representatives appeared before the GST authorities and duly represented the company's case, such liability could likely have been avoided. Though the Resolution Professional is willing to prefer an appeal against the said order, the same is presently hindered due to non-availability of the requisite records and copy of the notice issued by the GST Department, which the suspended Directors have failed to provide.

g. That the Corporate Debtor was operating through various online portals under the following domain names:

https://alavabystage3.com

https://cosmobrands.in

https://stage3.co

The Resolution Professional, vide emails dated 27.11.2024 and 12.12.2024, sought from the suspended Directors complete information and documents pertaining to the valuation of the sale of brands and trademarks of the Company. However, despite repeated requests, the suspended Directors failed to furnish the requisite information or provide the valuation reports relating to such sales.

3. REPLY ON BEHALF OF RESPONDENT NO. 1 i.e., MS. SABENA PURI

a. The Respondent submitted that the allegation that expenses were disproportionate to revenue is misconceived. It is well settled that businesses, particularly in their initial or expansion phases, may incur higher expenditure than revenue, which by itself cannot amount to mismanagement or siphoning of funds.

b. It is specifically denied that the expenses incurred by the Corporate Debtor, including office rent and employee salaries, were unjustified or indicative of mismanagement. The rented premises were essential for efficient business operations, providing requisite infrastructure and facilities. A mere difference of opinion by the Applicant/Resolution Professional ("RP") cannot render such bona fide commercial decisions improper. It is further denied that the salaries paid to employees, including Mr. Sanchit Baweja, were excessive or unreasonable. The remuneration was commensurate with industry standards, assigned responsibilities, and individual expertise. The Applicant has produced no credible evidence to the contrary.

c. It is submitted that the Answering Respondent, Ms. Sabena Puri, is a Non-Resident Indian residing in the United States of America since 2022. Consequently, her involvement in the day-to-day affairs and management of the Corporate Debtor was minimal, and she was not directly engaged in operational or statutory compliance matters thereafter. The non-filing of certain statutory returns for the financial years ending 31.03.2023 and 31.03.2024 resulted from the financial distress and operational constraints faced by the Corporate Debtor during the relevant period. As regards the alleged claim of ₹78,50,325/- pursuant to the ex-parte order passed by the GST Department, it is submitted that no notice or communication was ever served upon the Answering Respondent prior to the passing of the said order. Being resident in the United States since 2022 and not having been notified of any such proceedings, she was unaware of the same. Hence, the allegation that the Suspended Directors failed to appear before the GST Authorities is wholly unfounded and misconceived.

d. It is submitted before this Tribunal that the proceeds from the sale of the Corporate Debtor's assets, including its trademarks, digital assets, and domain, were neither misappropriated nor siphoned off. The funds were bona fide applied toward meeting pressing liabilities in the ordinary course of business. The audited financial statements for FYs ending 31.03.2023 and 31.03.2024 clearly reflect that the asset sales were necessitated by severe financial distress and that the proceeds were utilized to reduce outstanding liabilities.

e. The Respondent submitted that as per Note 9 of the Balance Sheet for FY ending March 2023, the Trademark was recorded under Capital Work-in-Progress at a value of ₹31,920. In the subsequent FY ending March 2024, due to severe financial distress and cessation of operations, the Corporate Debtor sold the Trademark along with its digital assets to generate liquidity. This fact is duly reflected in Note 3 of the Balance Sheet for FY ending March 2024, which states as under:

> *"The Company was in distress as on the closing date of the books, the company was facing a cash crunch since last year and struggling to pay off its liabilities. Based on the subsequent event, business is significantly affected, all the employees have left the company, **and the company has sold its assets including its trademark to pay off some of the secured liabilities.** The company had filed an application under section 10 of the Insolvency and Bankruptcy Code, 2016 with a prayer to initiate the Corporate Insolvency Resolution Process as the Corporate Debtor being the Corporate Applicant itself. The application was accepted by the honourable NCTL, New Delhi Bench on 13" August 2024 and an Interim Resolution Professional was appointed. These conditions indicate the existence of a material uncertainty that may cast significant doubt about the Company's ability to continue as a going concern, which is dependent on establishing profitable operations. In view of these factors, the accompanying financial statements have been prepared under the realizable value basis."*

f. It is further submitted that the financials for the year ending 31.03.2024 clearly reflect the application of sale proceeds toward repayment of existing liabilities. Short-term borrowings (Note 5) reduced from ₹1,04,63,264 in FY 2022-23 to ₹53,62,843 in FY 2023-

24, indicating a reduction of about ₹51 lakh. Similarly, other current liabilities (Note 7) decreased from ₹1,44,75,607 in FY 2022-23 to ₹1,28,14,286 in FY 2023-24.

g. The aforesaid reduction in the Corporate Debtor's liabilities corresponds to the period immediately following the sale of the assets. For FY 2023-24, the Corporate Debtor adopted the realizable value basis of accounting, as stated in the notes to the financial statements, reflecting that the asset sales were undertaken solely to maximize recoveries and discharge liabilities. Accordingly, the sale of the trademark and other assets was commercially justified and led to a significant reduction in liabilities. Hence, the transaction cannot be viewed in isolation or alleged to be undervalued, absent any legal basis or recognition of the financial exigency under which it occurred.

h. The allegation that the brands "Alaya" and "Stage Three" were sold at a throwaway price of ₹2,54,237 is baseless, misleading, and devoid of merit. The sale of the brands and digital assets was undertaken through a transparent and commercially prudent process, considering the Corporate Debtor's deteriorating financial condition. The trademarks and digital assets were sold for ₹3 lakh and ₹61.20 lakh respectively to generate immediate funds for settling pressing liabilities, as reflected in the Balance Sheets for FYs 2021-22 to 2023-24. The valuations were consistent with prevailing market conditions, with no mala fide intent or personal gain involved. The Applicant/RP has produced no evidence to substantiate the allegation of undervaluation.

ANALYSIS AND FINDINGS

4. We have heard the Ld. Counsel on behalf of the Applicant and further perused the averments made in the Application by the RP and further, Reply filed by the Respondent.

5. As per Section 45 of the IBC, if the IRP/RP forms an opinion that an undervalued transaction has occurred within the look-back period, one year with unrelated parties and two years with related parties prior to the commencement of CIRP, appropriate action may be initiated. In the present case, the RP has alleged that the Suspended Board of Directors entered into an undervalued transaction on 31.12.2023 by selling the Corporate Debtor's assets, including its two registered brands — *"Alaya"* (Classes 25 & 35) and *"Stage Three"* (Classes 25, 18, 14, 45 & 35) — at a throwaway price of ₹3,00,000/-, which is grossly below their market value. This is substantiated by the Corporate Debtor's Tally data

6. The RP has further submitted that, owing to the promoters' failure to furnish the valuation reports pertaining to the sale of the trademarks and the e-commerce portal, he is presently constrained in determining the precise extent of undervaluation. It is stated that the material and information placed before this Tribunal have been collated by the RP from independent sources, as the suspended directors have not extended the requisite cooperation during the CIRP. Such non-cooperation, according to the RP, appears to be aimed at suppressing and concealing the impugned undervalued transactions.

7. The RP has to prima facie form an opinion about avoidance transactions. After formation of opinion, he has to make a determination, which means he has to quantify the amount with supporting evidence, documents/material to prove the transactions are covered under section 45 of the Code.

8. The submission of the Appellant that when IRP was of the view that allotment is undervalued, he ought to have initiated proceedings under Section 45. It is true that in the letter which was communicated by the RP on 12.12.2024 to the ex-directors of the Corporate Debtor enquiring upon various queries related to undervalued transactions

9. It is submitted by the Applicant that the impugned transactions fall squarely within the scope of Section 45 of the Code and should be treated as undervalued transactions. However, upon examination of the report, it is noted that though clarifications were sought from the suspended management regarding the basis and details of these transactions, no satisfactory response or supporting documentation was provided. In light of the above, the Applicant has prayed that this Adjudicating Authority be pleased to direct the Respondents to restore and appropriate all the amounts involved in the impugned transactions to the account of the Corporate Debtor maintained under the supervision of the Resolution Professional.

10. We also observe that a statutory duty is cast upon the Resolution Professional (RP) under the provisions of the Insolvency and Bankruptcy Code, 2016, to form an opinion, within seventy-five days from the Insolvency Commencement

Date (ICD), as to whether the Corporate Debtor has been subjected to any transactions falling within the ambit of Sections 43, 45, 50, or 66 of the Code. Upon forming such an opinion, the RP is further required to make a determination within the prescribed period and, if warranted, file an appropriate application before the Adjudicating Authority seeking necessary directions or reliefs.

11. However, in the present case, it is noted that no such opinion has been duly formed by the RP in terms of the statutory mandate. The RP has neither sought the assistance of any forensic auditor nor engaged an independent valuer or expert to substantiate the alleged irregularities or to establish the existence of any preferential, undervalued, or fraudulent transactions. The record indicates that the RP has merely expressed a suspicion with respect to certain transactions undertaken by the suspended directors, without conducting or presenting any independent inquiry, audit, or determination in accordance with the procedural framework envisaged under the Code.

12. It is observed that there is no documentary or evidentiary material placed on record to substantiate the valuation of the alleged transactions. The Resolution Professional has neither enclosed any valuation report nor appointed or relied upon the findings of a transactional or forensic auditor to support the claim of undervaluation. Furthermore, the RP has failed to identify with specificity any particular transaction that qualifies as an "undervalued transaction" within the meaning of Section 45 of the Insolvency and Bankruptcy Code, 2016.

13. The RP has also not produced any documentary evidence or comparative analysis to demonstrate the disparity between the transaction value and the fair market value of the assets in question. Merely stating that certain transactions are undervalued, without corroborating material or an independent valuation, cannot meet the threshold of proof required under the Code.

14. Under Section 45(2) of the Insolvency and Bankruptcy Code, 2016, a transaction shall be deemed to be undervalued if the Corporate Debtor—

(a) makes a gift to any person; or

(b) enters into a transaction with any person which involves the transfer of one or more assets by the Corporate Debtor for a consideration that is significantly less than the value of the consideration provided by the Corporate Debtor, and such transaction is not carried out in the ordinary course of its business.

15. In the present case, upon a comprehensive evaluation of the material available on record, it is evident that the Resolution Professional has failed to discharge the burden of proof necessary to establish the existence of any transaction falling within the ambit of Section 45 of the Code. No conclusive evidence, valuation report, or corroborative material has been produced to demonstrate that the impugned transactions were carried out for inadequate consideration or outside the ordinary course of business. Accordingly, considering the totality of facts and circumstances, we have no hesitation in holding that the Resolution Professional has failed to substantiate the allegation of any undervalued transaction as contemplated under Section 45 of the Code.

16. For all the reasons discussed above, we conclude that the Applicant/Resolution Professional has failed to establish that the alleged transactions in the present application are undervalued. We find no merit in the present application which deserves to be dismissed. Accordingly, the Application **I.A. (I.B.C)/459(ND)2025 in C.P. (IB)-193/ND/2024 stands disposed of.**

Sd/-	**Sd/-**
ATUL CHATURVEDI **MEMBER (TECHNICAL)**	**MANNI SANKARIAH SHANMUGA SUNDARAM** **MEMBER (JUDICIAL)**