

**NATIONAL COMPANY LAW TRIBUNAL**  
**COURT ROOM NO. 1,**  
**MUMBAI BENCH**

**Item No. 18**

**IA 3703/2023**

**In**

**C.P. (IB)/66(MB)2018**

CORAM:

**SH. PRABHAT KUMAR      JUSTICE VIRENDRASINGH BISHT (Retd.)**  
**HON'BLE MEMBER (TECHNICAL)   HON'BLE MEMBER (JUDICIAL)**

ORDER SHEET OF THE HEARING ON **29.04.2024**

NAME OF THE PARTIES:    ANCHOR LEASING PRIVATE LIMITED V/s  
EURO CERAMICS LIMITED

Section 60(5) OF THE Insolvency And Bankruptcy Code, 2016

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**ORDER**

1. Mr. Agam H Maloo, Ld. Counsel for the Applicant present.
2. This Application has been filed by Mr. Nirav Anupam Tarkas, Resolution Professional u/s 66 of the Code seeking following reliefs :
  - a. declare that transactions mentioned in Paragraph 5 hereinabove is fraudulent and/or wrongful transactions under Sections 43 to 67 of Insolvency and Bankruptcy Code, 2016;
  - b. call upon Respondent Nos. 1 to 3 to contribute to the assets of the Corporate Debtor, the respective amounts specified in respect of each of the transactions referred to in Paragraph 5 above
3. Applicant initially being the RP, pursuant to the resolution of the COC, filed an Application before this Hon'ble Tribunal and prayed for an Order of liquidation under Section 33 of the Code. Ultimately, this Hon'ble Tribunal

passed an Order of Liquidation on 1<sup>a</sup> December, 2020 and the RP was appointed as the Liquidator of the Corporate Debtor.

3.1. The Applicant had taken charge of the books of accounts and other assets of the Corporate Debtor. Upon reviewing the books of accounts of the Corporate Debtor, the Applicant discovered certain fraudulent transactions (falling within the purview of Section 66 of the Code), while reviewing the books of the Corporate Debtor.

3.2. The Applicant being a Chartered Accountant, inspected the books of accounts of the Corporate Debtor and discovered the dubious transactions, which required further investigation and therefore, the Applicant proposed the appointment of a Transactional Auditor, and Raj Niranjana Associates were appointed as Transactional Auditor.

3.3. Having regard to the facts and pursuant to a bare perusal of the Transactional Audit Report, it is prima facie evident that the Corporate Debtor has entered into several transactions with related parties and non-related parties, with a view to defraud the creditors and stakeholders of the Corporate Debtor and it would be just and reasonable for this Hon'ble Tribunal to pass appropriate orders setting aside such preferential and/or fraudulent transactions and recovering the assets of the Corporate Debtor from the concerned Respondents, in terms of Sections 47, 66 and other applicable provisions of the Code.

4. Heard the learned counsel for the applicant and perused the records.

4.1. In this case, the Applicant has arrayed the Corporate Debtor as Respondent No.1 and third parties as Respondent No.2 and 3. The Board of directors and key managerial personnel have not been arrayed as a party. In the case of *Glukrich Capital Pvt. Ltd. Vs. The State of West Bengal & others (2023) ibclaw.in 75 SC*, the Hon'ble Supreme Court at Para 10 held that "We are of the considered opinion that in such circumstances, it is for the Resolution Professional or the successful resolution applicant, as the case

*may be, to take such civil remedies against third party, for recovery of dues payable to corporate debtor, which may be available in law. The remedy against third party, however, is not available under Section 66 of IBC, and the civil remedies which may be available in law, are independent of the said Section.”*

4.2. In view of this, this Bench cannot pass any order against Respondent No. 2 and 3. Respondent No.1 is the Corporate Debtor itself. Hence, no order can be passed against any of the respondents.

4.3. In view of above, the I.A. 3703/2023 is dismissed and disposed of.

Sd/-

**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**  
/NP/

Sd/-

**JUSTICE VIRENDRASINGH BISHT**  
**MEMBER (JUDICIAL)**