

**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT VI, NEW DELHI**

IA 1860/2024

IN IB-682/PB/2021

(Application under Section 60(5) of IBC, 2016)

IN THE MATTER OF:

Nitin Batra & Ors.

...Financial Creditor

VERSUS

M/s. Anand Infoedge Pvt. Ltd. & Ors.

...Corporate Debtors

AND IN THE MATTER OF

M/s Anand Infoedge Private Limited

...Applicants

VERSUS

Mr. Nitin Batra

... Respondent No 1

Mr. Gaurav Bharadwaj

... Respondent No 2

Col. Gulshan Juneja

... Respondent No 3

**Station House Officer (SHO)
PS Sarita Vihar, New Delhi**

... Respondent No 4

CORAM:

SHRI. MAHENDRA KHANDELWAL, MEMBER (JUDICIAL)

SHRI. RAHUL BHATNAGAR, MEMBER (TECHNICAL)

For the Petitioner/Financial Creditor: Adv. Sahil Sethi, Adv. Samriddh Bindal, Adv. Vikash Kumar.

For the Respondent/Corporate Debtor: Mr. Pradeep Sharma (SI), Police Station Sarita Vihari in IA/1860/2024. Sr. Adv. P. Nagesh, Adv. N.P.S. Chawla, Adv. Mahima Shekhawat, Adv. Jasjeet Singh, Adv. Praney Sharma for R-3. Adv. Vijay Aggarwal, Adv. Venancio D'Costa, Adv. Astha Ojha, Adv. Gauri Goel for R-1.

ORDER

PER- RAHUL BHATNAGAR, MEMBER (TECHNICAL)

Order Pronounced on: 13.05.2024

1. This Interlocutory Application No 1860/2024 has been filed by M/s Anand Infoedge Pvt. Ltd., one of the Corporate Debtors in the main petition under Section 7 of the Insolvency and Bankruptcy Code, 2016. The applicants in the present application have prayed for the following reliefs:

(a) Directing to dismiss the present Company Petition u/s 7 IBC bearing No. IB-682/PB/2021 titled as "Nitin Batra & Ors. vs. Anand Infoedge & Ors." filed by the Applicants/Financial Creditors on the ground of playing fraud on this Hon'ble Tribunal, in case any incriminating material is found against the Applicants/Financial Creditors by the Investigating Officer during the investigation in connection with FIR bearing No. 102/2024 dated 21.03.2024 registered at P.S.: Sarita Vihar (South-East) u/s 420/467/468/471/34 IPC against the Applicants/ Financial Creditors for filing false/affidavits before this Hon'ble Tribunal;

- (b) Directing appropriate action against the Applicants/financial creditors, in case incriminating material is found against them during the investigation done by the IO in connection with FIR bearing No. 102/2024 dated 21.03.2024 registered at P.S.: Sarita Vihar (South-East) u/s 420/467/468/471/34 IPC;*
- (c) Directing that the further proceedings of the present Company Petition u/s 7 IBC bearing No. IB-682/PB/2021 titled as "Nitin Batra & Ors. vs. Anand Infoedge & Ors." be kept in abeyance till the time the investigation is complete in connection with FIR No. 102/2024 dated 21.03.2024 registered at P.S.: Sarita Vihar (South-East) u/s 420/467 /468/471/34 IPC*
- (d) Directing the Respondent No. 4/ SHO, PS Sarita Vihar, New Delhi to file a status report of investigation in connection with First Information Report (FIR) bearing No. 0102/2024 dated 21.03.2024 registered at P.S.: Sarita Vihar (South-East) u/s 420/467 /468/471/34 IPC against the Applicants/Financial Creditors for filing false/affidavits before this Hon'ble Tribunal in the present company petition;*
- (e) Take such other actions and pass order as this Hon'ble Court may deem fit and proper in the interest of justice.*

2. The Counsel on behalf of the respondents appeared based on advance notice, argued the matter extensively, and submitted that the same issue has already been settled by this Adjudicating Authority. The matter was reserved on 23.04.2024.

FACTS OF THE CASE

3. The submissions of the applicant in brief are as under: -

- i. The present application is being filed by the Respondent No. 1 (in the main matter), i.e., Anand Infoedge Pvt. Ltd, seeking appropriate directions to dismiss the present Company Petition u/s 7 IBC bearing No. IB-682/PB/2021 titled as "*Nitin Batra & Ors. vs. Anand Infoedge & Ors.*" filed by the Applicants/Financial Creditors on the ground of playing fraud on this Adjudicating Authority.
- ii. That on 31.07.2023, Mr. Yogender Singh, Advocate (Notary), purportedly attested the Affidavits filed by 6 (six) Applicants/ Financial Creditors which were filed before the NCLT along with section 7 IBC petition. However, there was no entry of these documents in their registers. Mr. Yogender Singh has given a certificate to this effect on 31.07.2023.

- iii. Thereafter, during the pendency of present company petition u/s 7 IBC, it came to the notice that the Applicants/Financial Creditors have played fraud upon this Tribunal by filing of false affidavits in an endeavor to comply with the provisions of Section 7 IBC by applicants.
- iv. On 24.08.2023, six (6) of the Applicants/ Financial Creditor under the application under Section 7 IBC, filed their fresh affidavits on 24.08.2023 before the NCLT.
- v. On 04.01.2024, the Applicant/Respondent No. 1 filed a criminal complaint against the Applicants/Financial Creditors before P.S Sarita Vihar, New Delhi for filing false, forged and/or fabricated affidavits before this Tribunal.
- vi. That FIR was registered bearing No. 102/2024 dated 21.03.2024 registered at P.S. Sarita Vihar (South-East) u/s 420/467/468/471/34 IPC against the Financial Creditors for filing false affidavits before this Tribunal pursuant to the criminal complaint dated 04.01.2024;
- vii. Further, on 03.04.2024, a Petition under section 482 of the Code of Criminal Procedure, 1973 bearing CrI. MC. No. 2749/2024 titled as "Nitin Batra & Ors. Vs The State of NCT

of Delhi Through Standing Counsel & Ors.", was filed by the Financial Creditors before the Hon'ble Delhi High Court seeking quashing of FIR No. 102/2024 dated 21.03.2024.

- viii. The said petition bearing CrI. MC. No. 2749/2024 titled as "Nitin Batra & Ors. Vs The State of NCT of Delhi Through Standing Counsel & Ors. was listed before the Hon'ble High Court on 05.04.2024 and the Hon'ble Court issued notice on the said petition, however, refused to grant the interim protection to the Applicants/ Financial Creditors.
- ix. That during the course of investigation, a copy of the company petition was provided to the Investigating Officer ('IO') by the Applicant/Respondent No. 1 in five volumes by way of an email dated 07.04.2024.
- x. Further, on 08.04.2024, the Applicant/Respondent No. 1 sent another email to the IO wherein, a consolidated list of all the Notary Publics along with the details of the affidavits notarized by them was given.
- xi. That after conducting investigation on the basis of documents provided, the IO has orally informed the officials of Applicant/Respondent No. 1 that so far, apart from the

affidavits of six applicants who are residents of Australia, he has found 19 (nineteen) other affidavits which are false/forged. Further, the Investigating Officer (I.O) has orally informed that in order to investigate further and unearth the entire act of fraud committed by the Financial Creditors, he has issued a notice under section 91 CrPC to the Ld. Registrar of this Tribunal thereby, seeking the copies of original affidavits of all the 143 applicants/Financial Creditors, filed along with company petition u/s 7 IBC.

xii. Besides that, the Applicant/Respondent No. 4 has also filed an application under section 156(3) CrPC before the Ld. Chief Metropolitan Magistrate (CMM), Saket Court (South East), New Delhi, for monitoring investigation and praying for passing necessary orders and directions to the I.O for expeditious and proper investigation in the matter.

xiii. Therefore, in light of the aforementioned facts and circumstances, it is apparent that the Applicants/Financial Creditors have filed the present Company Petition u/s 7 of IBC which was accompanied by false/forged affidavits, only

with an endeavour to meet the threshold of minimum of 100 financial creditors for filing of the company petition u/s 7 IBC. It is submitted that at no point of time and even at the time of filing of the company petition u/s 7 IBC, the minimum threshold of 100 allottees of same class did not exist.

- xiv. That subsequent to the dismissal of the IAs filed by the one of the Corporate Debtors (Respondent No 3 of the main Company Petition) bearing Nos. IA/5400/2023, IA 4121/2023, IA 4122/2023, IA 4312/2023, FIR No. 102/2024 dated 21.03.2024 was registered against the Applicants/Financial Creditors at P.S Sarita Vihar u/s 420,467,468,471,34 IPC. The registration of the said FIR in itself is a prima facie indicative of fraud which has been played upon by the Applicants/Financial Creditors on this Tribunal. Further, refusal of interim relief by the Hon'ble Delhi High Court in petition u/s 482 CrPC bearing Crl. MC. No. 2749/2024 titled as "Nitin Batra & Ors. Vs The State of NCT of Delhi Through Standing Counsel & Ors.", was filed by the Financial Creditors, is also indicative of the fact that

the Hon'ble Delhi High Court was inclined to get the matter investigated so that the acts of fraud committed by the Financial Creditors is un-earthed.

- xv. Therefore, in view of the aforesaid circumstances, it is incumbent upon this Tribunal to take note of subsequent events, in order to shorten the litigation and ensure that the ends of justice are met.
- xvi. Therefore, in view of the aforesaid circumstances and considering the fact that fraud has been committed on this Tribunal, it is incumbent on this Tribunal to closely monitor the investigation done by the I.O in connection with the FIR No. 102/2024 dated 21.03.2024 registered at P.S.: Sarita Vihar (South-East) u/s 420/467/468/471/34 IPC and call for the status report of the investigation. Further, it would be in the interest of justice that the proceedings before this Tribunal are kept in abeyance till the time investigation is complete by the I.O in connection with the aforesaid FIR.
- xvii. Further, after the investigation is complete and if the incriminating material is found against the Applicants/financial creditors, then their petition may be

summarily dismissed, and they shall be disentitled to get their company petition heard on merits. Also, appropriate action may be taken against the Applicants/financial creditors, in case incriminating material is found against them during the investigation done by the I.O.

ANALYSIS AND FINDINGS

4. We have heard the submissions made by the applicants as well as Financial Creditor and Corporate Debtor. Some of the issues arising in the present application has already been dealt with by this Adjudicating Authority in IA /5400/2023, IA 4121/2023, IA 4122/2023, IA 4312/2023 wherein the Corporate Debtor had approached this Adjudicating Authority praying for similar relief(s) which are as under: -

(a) Pass necessary orders and directions, thereby dismissing the present Company Petition filed under Section 7 of IBC by the Applicants/Financial Creditors on the ground of playing fraud on this Tribunal;

(b) Initiate proceeding u/s Section 340 r/w section 195(1)(b) CrPC and other provisions of law against the Applicants/Financial Creditors;

*(c) Impose penalty u/s 65 of the IB Code 2016, on the Applicants/
Financial Creditors for initiating proceedings fraudulently and
with malicious intent;*

5. This Adjudicating Authority vide detailed order dated 05.01.2024
dismissed all the above and observed as under: -

*7. The Applicant has filed the present Application again
seeking dismissal of the Petition on the alleged ground
of fraud/forgery. It is the contention of the Applicant
that the Respondents have annexed forged affidavits
whilst filing the Section 7 Petition. The Applicant has
also contended that one of the Applicants in the Section
7 Petition named Ajay Khajuria (Applicant No.106 as
per the memo of parties in the company petition) has
provided a declaration that the affidavit filed before
Adjudicating Authority in the present matter has not
been signed by him and there is a visible difference in
signatures. The Respondents have denied all the
allegations raised by the Applicant. With respect to Mr.
Ajay Khajuria, it is noted that Mr. Ajay Khajuria had
filed an Application bearing number IA/3755/2022
under Rule 8 of IBBI (Application to Adjudicating
Authority) Rules, 2016 seeking withdrawal of the
Applicant's claim. The said application was allowed by
this Adjudicating Authority vide order dated*

12.08.2022. The relevant part of the order is reproduced herein below:

Therefore, it is clear that Mr. Ajay Khajuria had given his consent to the Applicants in the Section 7 Petition to proceed against the Corporate Debtors u/s 7, IBC, 2016. Subsequently, upon settlements of his debt, he withdrew his claim and it appears that now he has joined with the Applicants in the present Application. The Applicants are therefore, only trying to delay the CIR Process by raising such vexatious claims wherein it is on record that the claim of such person has been withdrawn and no such ground of forgery was raised by Mr. Ajay Khajuria while filing the Application for withdrawing his claim and his consent for filing the Section 7 Petition.

10. In light of the above, we find no merit in the present Application filed for dismissal of IB-682/PB/2021 which a Section 7 Application. **The present Application appears to be misleading, filed only for the purpose of delaying the adjudication of IB 682/PB/2021. The applicant has failed to appreciate that the intent behind classification of homebuyers as “Financial Creditor” by the**

legislature was to enable homebuyers to participate in the insolvency resolution process in a constructive and egalitarian manner. The Applicant is insisting on dismissal of the Section 7 Petition even after the same has been held maintainable by the Hon'ble NCLAT vide order dated 17.11.2023 and the Hon'ble Supreme Court vide order dated 11.12.2023 has held that the issue of maintainability shall stand concluded by the order dated 17.11.2023 insofar as the Adjudicating Authority and NCLAT are concerned.

The malafide intention of the Applicant to delay the adjudication of the Section 7 Petition is also evident from the fact that the Applicant never raised this contention of affidavits being forged during the adjudication of maintainability of the Section 7 Petition neither before this Adjudicating Authority nor before the Hon'ble NCLAT.

12. From the prayers made at (a) to (g) in the application it transpires that the applicant is attempting to drag on the proceedings and build an approach to have a road-way for forum shopping, therefore, the IA/5400/2023 is dismissed.

13. IA/5400/2023 stands dismissed. Consequently, IA/4312/2023, IA/4121/2023 & IA/4122/2023 also stand dismissed. The applicant is also directed to

refrain from filing such frivolous applications in future so as to avoid imposition of cost.

11. The Corporate Debtor approached the Hon'ble NCLAT against the order dated 05.01.2024 of this Tribunal. The Hon'ble NCLAT vide order dated 29.01.2024 dismissed the appeal filed by the Corporate Debtor and upheld the order dated 05.01.2024. The Hon'ble NCLAT while dismissing the application has made the following observations: -

*10. The above facts indicate that **Appellant has questioned the maintainability of Section 7 Application on the ground of threshold and contested the matter upto Hon'ble Supreme Court unsuccessfully. The IAs, which have been filed by the Appellant before the Adjudicating Authority in August 2023 and October 2023, are nothing but another attempt to resist Section 7 Application and delay the disposal. The Adjudicating Authority in the impugned order has made strong observation against the Appellant and has clearly found that intention of the Applicant is malafide to delay the adjudication of Section 7 Application.***

14. When six Applicants against whom allegations were made that they have not sworn the affidavit, have filed a fresh affidavit dated 24.08.2023 reiterating that they have authorised Respondent Nos.1, 2 and 3 to represent them in the proceeding, we do not find any reason for taking any the proceeding any further by the Adjudicating Authority. The Adjudicating Authority has rightly taken the view that present is not a case where any investigation under Section 340 CrPC needs to be initiated. The Adjudicating Authority has relied on judgment of Hon'ble Supreme Court.

15. The Hon'ble Supreme Court in the above case of Amarsang Nathaji has held that Court has to form an opinion that it is expedient in the interests of justice to initiate an inquiry into the offences of false evidence and offences against public justice and more specifically referred in Section 340(1) CrPC. The Adjudicating Authority has rightly not initiated proceeding under Section 340 of CrPC. In view of the facts of the present case, we see no error in decision of the Adjudicating Authority not to direct any action under Section 340(1) of the CrPC.

17. Penalty under Section 65 of the Code can be imposed when there is fraudulent or malicious initiation of proceedings. In the present case, the Applicants who are allottees in real estate project have filed the Application to protect their rights and it is not disputed that they are allottees of the project, which is developed by the Appellant. There is no ground to hold that initiation of Section 7 proceedings by allottees was fraudulent or malicious. Hence, no error has been committed by the Adjudicating Authority in rejecting the prayer of the Appellant to impose the penalty under Section 65.

19. It is relevant to notice that when Khajuria has withdrawn the claim, there was no such allegation made in the IA No.3755 of 2022 that he has not signed the affidavit. Khajuria has given the letter to Corporate Debtor that his signatures in the affidavit, which was filed along with the Application are dissimilar. Khajuria has not even filed an affidavit saying that he did not sign the affidavit, which was earlier filed. More so, when Khajuria has withdrawn his claim and he is no longer part of Section 7 Application, any certificate given by him to the Corporate Debtor, does

not give any ground to the Appellant to challenge the proceeding. The Adjudicating Authority thus, considered the said ground and rightly overruled the same.

*22. In view of the foregoing discussions and conclusions, we are of the view that Adjudicating Authority did not commit any error in rejecting IAs filed by the Appellant praying for various reliefs as extracted above. **The Adjudicating Authority has rightly observed that the intention of the Appellant is malfide and objections are only to delay the adjudication of Section 7 Application. We do not find any error in the impugned order, as no ground is made out to interfere with the order, the appeal is dismissed.** No order as to costs*

12. The Corporate Debtor against the order of Hon'ble NCLAT dated 29.01.2024 approached the Hon'ble Supreme Court however, on the very first day they withdrew their application before the Hon'ble Supreme Court on 29.04.2024.

13. Now once again the applicants have filed the application and raising similar prayers that fraud has been played on this Tribunal. In support of their contention FIR bearing No. 102/2024

dated 21.03.2024 has been registered at P.S: Sarita Vihar (South-East) u/s 420/467/468/471/34 IPC against the Applicants/ Financial Creditors for filing false/affidavits before this Tribunal has been filed

14. Before proceeding to adjudicate the present application, it is necessary to consider the orders passed by this Tribunal, the Hon'ble NCLAT, and the Hon'ble Supreme Court in the present case

15. The first issue raised by the Corporate Debtor was on the issue of maintainability, which was decided by this Adjudicating Authority vide order dated 21.10.2022 and the order of this Adjudicating Authority was subsequently upheld by the Hon'ble NCLAT vide order dated 17.11.2023 and the Hon'ble Supreme Court vide order dated 11.12.2023. It is pertinent to note that the Hon'ble Supreme Court, while dismissing the appeal filed by the CD against the order of the Hon'ble NCLAT, has held as under: -

“After the application under Section 7 is heard and disposed of on merits, should it become necessary to do so, the parties would be at liberty to take recourse to all appropriate proceedings in accordance with law. At that stage, should it become so necessary, this Court

*will enquire into both the merits and maintainability. However, we also clarify that the issue of maintainability shall stand concluded by the impugned order dated 17 November 2023 insofar as the National Company Law Tribunal and NCLAT is concerned. **Since the application under Section 7 is pending for over two years, we request the NCLT to take up the application at the earliest possible date and to endeavour an expeditious disposal within two months.***

16. Then an application bearing IA 3875/2023 was filed seeking dismissal of the main Company Petition on the ground that the outcome of the present petition shall have a direct bearing on the interests of the applicants and that the Section 7 Petition shall result in the corporate death of the Corporate Debtor. This Adjudicating Authority dismissed the application vide order dated 25.07.2023. While dismissing the application, the Adjudicating Authority made the following observations: -

The Section 7 application is originally a petition moved by the Unit Buyers. Present application is jointly filed by (1) M/s Disire Retail Pvt. Ltd. holding 69 units in the Festival City Project (2) M/s Ramble Markets Pvt. Ltd. holding 60 units in the Project, (3) M/s Swift Buildwell

*Pvt. Ltd. holding 4 units in the Project and (4) M/s Veena Gases and Chemicals Pvt. Ltd. holding 9 units in the Project. The Counsel for the Applicants has submitted that the Applicants are necessary and proper party to the present proceedings, as the outcome of the present petition shall have direct bearing on the interest of the Applicants. The Ld. Counsel for the Applicants have submitted that all the Applicants together have invested an amount, in excess of 21.5 crore in the project of the Corporate Debtor. **It is clear from the submissions of the Counsel that the Applicants are strategic investors in the project, who will ultimately sell the units to interested buyers. The Section 7 Petitioners are allottees of the units. The Applicants in their application has sought for dismissal of the present Section 7 application and also such other and further reliefs.** We have also considered the submissions made by the Ld. Counsel appearing on behalf of the Applicants. **Having considered the stage of the matter and keeping the objects of IBC in view and as the preamble clearly says that timely resolution of CIRP process is one of the prime objects of the Code, the present application by the strategic investors seeking intervention in the matter and the relief of dismissal of Section 7 application cannot be***

entertained at this stage of the matter. The apprehension of the Petitioner's Counsel that if CIRP is initiated the Applicants interest will be defeated, is neither true nor correct. According to this Adjudicating Authority CIRP is a process whereby the project will be taken up by a Successful Resolution Applicant who will be financially & managerially competent to run the project and will continue to do the work of the Corporate Debtor. Only that the Corporate Debtor will be replaced. The CIRP envisages the organization to work as a going concern. Therefore, the objection/apprehension raised by the Ld. Counsel for the Applicant is not sustainable in the eye of law.

Ld. Counsel for the Applicant has also raised another argument that after filing of present Section 7 application approximately 10 Petitioners have opted for settlement with the Corporate Debtor and walked out of the array of Petitioners. In terms of "Manish Kumar Vs. Union of India" judgment passed by the Hon'ble Supreme Court of India, the criteria that should be looked into by Adjudicating Authority is whether as on date of filing of the Section 7 petition, the Petitioners are able to master the support of minimum number of Applicants or not. Therefore, the argument advanced by the Counsel for the Applicants is not sustainable. At the outset it is clarified

*that few of the Petitioners at their own wisdom walked out of the array of the Petitioners, does not create an impression to this Adjudicating Authority that Petitioners are treating this proceeding as recovery proceeding. In fact, at the stage of the matter, the very presence of the Petitioner's counsel and on the other dates of hearing undoubtedly leads to an impression that Petitioners are interested to have their own units through initiation of CIRP. **In view of the above, this Adjudicating Authority dismisses the present application, without costs. This order is dictated in the open Court. Dasti Allowed.***

17. Subsequently, the Corporate Debtor (CD) filed three separate applications to dismiss the main Company Petition, alleging that the Financial Debtor had committed fraud/forgery. The Adjudicating Authority dismissed all three applications vide order dated 05.01.2024. The order was subsequently upheld by the Hon'ble NCLAT vide order dated 29.01.2024. The parties went to the Hon'ble Supreme Court and thereafter withdrew their appeal on 29.04.2024.

18. Subsequently, two Intervention Petitions were filed wherein some unit holders have approached this Adjudicating Authority

praying for giving an opportunity to all the allottees to consider the scheme of Compromise and Arrangement filed under Section 230 of the Companies Act, 2013 proposed by the CD. This Adjudicating Authority after hearing the submissions of all the parties dismissed the Petitions and observed as under: -

14. The present application also appears to be similarly motivated, filed with the intention of delaying the proceedings which this Adjudicating Authority cannot entertain, especially in light of the order of the Hon'ble Supreme Court dated 25.07.2023. In this order, the Hon'ble Apex Court expressly directed this Adjudicating Authority to dispose of the main Company Petition expeditiously at the earliest possible date

*15. In view of above facts and circumstances, Invn. P/11/2024, Invn. P/12/2024 are **dismissed in limine.***

19. Thereafter one more application IA 1808/2024 was filed by 30 allottees jointly wherein prayer was made to direct the resolution of the entire dispute between the allottees and Corporate Debtors and not only the original Petitioners alone under the aegis of this Tribunal or by way of Mediation or any other manner. This

Adjudicating Authority dismissed the same and made the following observations: -

*18. Mere plain reading of the provision under section 7 of the Code shows that in a section 7 Petition, the Adjudicating Authority is only required to consider the question whether the 'debt' and 'default' is proved or not. Further, the Hon'ble Supreme Court in the matter of E.S. Krishnamurthy and Ors. vs. Bharath Hi Tech Builders Pvt. Ltd. (14.12.2021 - SC): MANU/SC/1249/2021 observed that under Section 7(5) of the IBC, the Adjudicating Authority is empowered only to verify whether a default has occurred or if a default has not occurred. Based upon its decision, the Adjudicating Authority must then either admit or reject an application respectively. These are the only two courses of action which are open to the Adjudicating Authority in accordance with Section 7(5). **The Adjudicating Authority cannot compel a party to the proceedings before it to settle a dispute.***

21. The present application also appears to be similarly driven, like other applications filed merely to delay proceedings, despite the express

directions of the Hon'ble Supreme Court to expeditiously dispose of the matter.

22. In view of the above, IA 1808/2024 stands dismissed in limine. Let a copy of this order be served to the parties concerned.

20. Now coming to the present application, it is observed that the facts contained within it have already been thoroughly examined and adjudicated upon on their merits, and the decision of this Adjudicating Authority was subsequently affirmed by the Hon'ble NCLAT. The only new development is the registration of a First Information Report (FIR) against the Financial Creditors. It is important to highlight that an FIR is essentially an initial report lodged with the police concerning the alleged commission of a cognizable offense. This report can be provided orally or in writing to the officer in charge of a police station. FIR is merely an information, not a substantive piece of evidence. In the matter of *Dharma Rama Bhagare v. State of Maharashtra, (1973) 1 SCC* in para 7 of the aforesaid judgement it was held that an FIR is not even considered to be a substantive piece of evidence and can be only used to corroborate or contradict the informant's evidence in

the court. Essentially, an FIR serves as the starting point for an investigation. Admittedly, investigation is underway and not completed and no charge sheet under section 173 of Code of Criminal Procedure, 1973 has been filed. Therefore, we find no merit in the applicant's assertion that the main petition should be dismissed.

21. As far as prayer (a) and prayer (c) is concerned, we cannot dismiss the matter or put the matter in abeyance given that no charge sheet under section 173 of Code of Criminal Procedure, 1973 has been filed and considering the explicit directions from the Hon'ble Supreme Court in its order dated 11.12.2023 to adjudicate the matter expeditiously.

22. As far as prayer (b) regarding directing appropriate action against Financial Creditors is concerned, under the IB Code, this Adjudicating Authority does not have the jurisdiction to direct appropriate action in case incriminating material is found against the Financial Creditors during the investigation done by the IO in connection with FIR. This issue is under the jurisdiction of the concerned Criminal Court under the CRPC, 1973 and therefore, we are unable to give any such directions.

23. In view of the above facts and circumstances, we are not inclined to entertain the present application.

24. Accordingly, IA 1860/2024 stands **dismissed**.

25. We would also like to clarify that we are not expressing our views or opinions on the veracity of any statements or documents as mentioned in the FIR.

26. Let a copy of this order be served to the parties concerned.

SD/-
(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)

SD/-
(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT-VI

Item No. 108
IB-682/PB/2021
IA/2349/2024

IN THE MATTER OF:
Mr. Nitin Batra and Ors.

...PETITIONER

Vs.

M/s. Anand Infoedge Pvt. Ltd. and Ors.

...RESPONDENT

Section
U/s 7 of IB Code, 2016

Order delivered on 13.05.2024
HYBRID HEARING (PHYSICAL & VC)

Coram:
SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)
SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner/Financial Creditor :Mr. Sahil Sethi, Mr. Samridh Bindal and Mr. Vikash Kumar, Advs.

For the Respondent/Corporate Debtor :Adv. V. D'Costa, Adv. Astha Ojha for Respondent No. 1.

ORDER

IA/2349/2024

This is an application filed under Section 60(5) of IBC, 2016 read with Rule 11 of NCLT Rules 2016 seeking permission to file status report for deciding the IA/1860/2024. Heard Ld. Counsel for the Applicant. It is noticed that IA No. /1860/2024 has already been decided today and order has been pronounced today, therefore, this application has now become infructuous. The same is **dismissed** as infructuous.

Sd/-
(Rahul Bhatnagar)
Member (T)

Sd/-
(Mahendra Khandelwal)
Member (J)