

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 540 of 2025

IN THE MATTER OF:

Sudhir Dinanath Chatutvedi

...Appellant

Versus

**True IPE LLP,
Liquidator of Adya Oils & Chemicals Ltd. & Ors.**

...Respondents

Present:

For Appellant : Mr. Chirag Mody, Mr. Minesh K. Shah, Advocates.

For Respondents : Mr. Ravi Raghunath, Advocate.

O R D E R
(Hybrid Mode)

08.09.2025: Heard learned counsel for the Appellant as well as learned counsel appearing for the Respondent. This appeal has been filed against the order passed by the Adjudicating Authority dated 22.01.2025 in I.A. No.1305/2020 in C.P. (IB) No.2392/MB/2019. I.A. No.1305/2020 was filed by the Liquidator praying for following reliefs:

“PRAYERS

12. In view of the foregoing, facts and circumstances of the case, the Applicant prays as follows:

a. That this Hon'ble Tribunal may be pleased to declare the loan transaction with IDBI bank by the Corporate Debtor as fraudulent and initiate further investigation in the matter through the appropriate central agency as per the provisions of section 66 of the I & B Code, 2016.

Cont'd..../

b. That this Hon'ble Tribunal may be pleased to direct Respondent no-4 to obtain the Search Report & Title Clearance Report

c. Direct Financial Creditors to make payment of stamp duty and other related dues, if any, to get the original documents from the Stamp office.

d. Direct the Financial Creditors to make the necessary payments for conversion of the Agricultural Property to NA, after receipt of the title clearance Report.

c. Direct the demolition of the wall that has been constructed to obstruct entry and exit to the factory.

f. Any other relief as the Hon'ble Tribunal may deem fit and proper.”

2. The Adjudicating Authority heard the application which was objected by the Appellant, who filed reply. The Adjudicating Authority after hearing the parties came to the conclusion that although ingredients of Section 66 are not made out in the application, however, in exercise of powers under Section 60(5) the application is allowed. Operative portion is contained in Para 7 of the order, which is as follows:

“7. Therefore, keeping in view the totality of the circumstance, it is evident that Respondents No. 1, 2, and 3 have acted in fraudulent manner. The tribunal notes that while the present case may not explicitly fall within the frame of Section 66, Section 60(5) empowers this tribunal to take notice of fraudulent conduct of the parties, thus exercising powers under the said section.

The tribunal is further of the considered opinion that the conduct of Respondents 1, 2, and 3 has been imprudent, and Respondents 4 and 5 have not been sufficiently vigilant enough to protect their own interests. Thus, the present IA No. 1305 of 2020 is hereby allowed.”

3. Learned counsel for the Appellant challenging the impugned order submits that when ingredients of Section 66 have not been made out in I.A. No.1305/2020, the prayers made in the application could not have been allowed since the prayer (a) in the application was squarely under Section 66 and other prayers (b), (c) and (d) were against the Financial Creditors and not against the Appellant. It is submitted that the loan was taken by the Corporate Debtor from the Financial Creditors in the year 1998, which loan was subsequently assigned to Stressed Assets Stabilisation Fund (SASF), allegation that title of all six blocks were not available could not be a ground to initiate any proceeding under Section 66 of I&B Code for proceeding which commenced in 2019.

4. Shri Ravi Raghunath, learned counsel appearing for the Liquidator submits that there has been finding of fraudulent conduct of the Corporate Debtor in other applications which were filed by the Liquidator and those findings were not even challenged by the Appellant, hence, the Adjudicating Authority has rightly exercised power under Section 60 (5) for passing the impugned order.

5. We have considered the submissions of learned counsel for the parties and perused the record.

6. The Adjudicating Authority when categorically returned the finding that ingredients of Section 66 are not made out, we fail to see any justification in allowing the prayers made in the application. The ultimate order is I.A. No.1305/2020 is allowed, whereas, prayer (a) was under Section 66 and other prayers were against the Financial Creditors. We, thus, are of the view that the impugned order cannot be sustained. In so far as submission of learned counsel for the Respondent that the order passed shall be confined to I.A. No.1305/2020 and may not have any effect on the other applications, there can be no quarrel to the proposition that the order impugned having passed in I.A. No.1305/2020, the operation of order shall confine to I.A. No.1305/2020 only. In view of the aforesaid, we are of the view the order impugned is unsustainable, which is set aside. Appeal is disposed of.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Archana/nn