



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **16.12.2025** THROUGH VIDEO CONFERENCING

PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF : Udhya Investments Pvt Ltd
Vs
Tiffin Barytes Asbestos & Paints Ltd

MAIN PETITION NUMBER : CP(IBC)/39/CHE/2018

(IA/MA) APPLICATION NUMBERS

IA/462/(CHE)/2024; IA(IBC)/2306(CHE)2024; IA(IBC)/922(CHE)2025

ORDER

Present: None for the Applicant.

None for the Respondent.

Vide common order pronounced in Open Court, applications
IA/462/(CHE)/2024; IA(IBC)/2306(CHE)2024 and IA(IBC)/922(CHE)2025
are dismissed. No orders as to costs.

File be consigned to records.

-Sd-

(VENKATARAMAN SUBRAMANIAM)
MEMBER (TECHNICAL)

MG

Date: 16.12.2025

-Sd-

(SANJIV JAIN)
MEMBER (JUDICIAL)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH-I
AT CHENNAI**

IA(IBC)/462/CHE/2024

In

CP(IB)/39(CHE)/2018

(filed under Section 379 of Bharathiya Nagarik Suraksha Sanhita, 2023 for the offence punishable u/s 227 to 229 of Bhratiya Nyaya Sanhita, 2023 r/w 424 of Companies Act, 2013 and Rule 11 of NCLT Rules)

In the matter of Tiffins Barytes Asbestos and Paints Limited

Dr. Ravi Shankar Vadam

Shareholder of Tiffins Barytes Asbestos and Paints Limited

Old No.9, New No.28

Balaji Avenue, 1st Street

T. Nagar, Chennai – 600 017.

... Applicant

Vs.

M. Poobalan

S/o. M. Munisamy

Authorized Representative of Udhayaman Investments Pvt. Ltd.

No.2, 3rd Cross Street, 1st Main Road, Devappa Garden

Nagashettyhalli, RMV 2nd Stage Extension

Bangalore – 560 094.

... Respondent

Present:

For Applicant : V Venkata Sivakumar, T Deenadhayalam, Advocates

For Respondent : Omprakash, Sr.Advocate

along with

IA(IBC)/2306/CHE/2024

In

CP(IB)/39(CHE)/2018

IA(IBC)/462/2024 along with IA(IBC)/2306/2024

In the matter of Tiffins Barytes Asbestos and Paints Limited



(filed under Section 379 of Bharathiya Nagarik Suraksha Sanhita, 2023 for the offence punishable u/s 227 to 229 of Bhratiya Nyaya Sanhita, 2023 r/w 424 of Companies Act, 2013 and Rule 11 of NCLT Rules)

In the matter of Tiffins Barytes Asbestos and Paints Limited

Dr. Ravi Shankar Vedam

Erstwhile Promoter and
Shareholder of Tiffins Barytes Asbestos and Paints Limited
143/1, Uthamar Gandhi Road
Nungambakkam
Chennai – 600 034.

... Applicant

Vs.

M. Poobalan

S/o. M. Munisamy
Authorized Representative of Udhayaman Investments Pvt. Ltd.
No.2, 3rd Cross Street, 1st Main Road, Devappa Garden
Nagashettyhalli, RMV 2nd Stage Extension
Bangalore – 560 094.
Email: mpbalan61@gmail.com

... 1st Respondent

K. Vasudevan

Liquidator of Tiffin Barytes Asbestos and Paints Ltd.
No.17B/7B, Maruthi Nagar
Hasthinapuram, Chrompet,
Chennai

... 2nd Respondent

Indian Overseas Bank

Represented by the General Manager
Esplanade Branch
Esplanade
Chennai

... 3rd Respondent

CA N. Venkata Subramanian

IA(IB)/462/2024 along with IA(IB)/2306/2024
In the matter of Tiffins Barytes Asbestos and Paints Limited



Auditor of Tiffins Barytes Asbestos and Paints Ltd.
GPVS and Associates
No.9/3, Manjulai 1st Street
Ekkattuthangal
Chennai – 600 032.

... 4th Respondent

Present:

For Petitioner : V Venkata Sivakumar, T Deenadhayalam, Advocates

For Respondent : Omprakash, Sr. Advocate

along with

IA(IBC)/922/CHE/2025

(seeking directions for declaring the Impugned Order admitting the Corporate Debtor to CIR Process as illegal and void in accordance with Sec 65 and Sec 60(5) of IBC, r/w Rule 11 of NCLT Rules, 2016)

In the matter of Tiffins Barytes Asbestos and Paints Limited

Dr. Ravi Shankar Vedam

Shareholder of Tiffins Barytes Asbestos and Paints Limited
143/1, Uthamar Gandhi Road
Nungambakkam
Chennai – 600 034.

... Petitioner

Vs.

M. Poobalan

Authorized Representative of Udhayaman Investments Pvt. Ltd.
No.2, 3rd Cross Street, 1st Main Road, Devappa Garden
Nagashettyhalli, RMV 2nd Stage Extension
Bangalore – 560 094.
Email: mpbalan61@gmail.com

... 1st Respondent

K. Vasudevan

Resolution Professional of
Liquidator of Tiffin Barytes Asbestos and Paints Ltd.
No.17B/7B, Maruthi Nagar
Hasthinapuram, Chrompet,
Chennai – 600 064.
Email: cavasu@gmail.com

IA(IB)/462/2024 along with IA(IB)/2306/2024

In the matter of Tiffins Barytes Asbestos and Paints Limited



... 2nd Respondent

Indian Overseas Bank
Represented by the General Manager
Esplanade Branch
Esplanade
Chennai – 600 104

... 3rd Respondent

Embassy Property Developments Pvt. Ltd.
Represented by Managing Director
Embassy Golf Links Business Park Royal Oaks
Intermediate Link Road
Bangalore – 560 071
Email: balu@embassyindia.com

... 4th Respondent

Present:

For Petitioner : V Venkata Sivakumar, T Deenadhayalam, Advocates
For Respondent : Omprakash, Sr. Advocate

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

Order Pronounced on 16th December, 2025

ORDER

(Heard Through Hybrid Mode)

IA(IBC)/462/CHE/2024

1. This Application has been filed under Sec, 379 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) (Previously 340 of CrPC, 1973) for initiating action for committing of offences punishable U/s 227 to 229 of Bharatiya Nyaya Sanhita, 2023 (BNS, 2023) (previously 191 to 193 of IPC) read

IA(IB)/462/2024 along with IA(IB)/2306/2024

In the matter of Tiffins Barytes Asbestos and Paints Limited



with 424 of Companies Act, 2013 and Rule 11 of NCLT Rules, seeking the following reliefs:

- a. *to record a finding to that effect;*
- b. *to make a complaint thereof in writing;*
- c. *to send it to a Magistrate of the First-Class having Jurisdiction;*
- d. *to take sufficient Security for appearance of the Accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the Accused in custody to such Magistrate.*
- e. *bind over any person to appear and give evidence before such Magistrate.*

Brief Facts

2. It is stated that, the Applicant is the son of Late Shri. S. Vedam the founder Director of Tiffins Barytes Asbestos and Paints Limited (hereinafter Corporate Debtor/CD) and erstwhile shareholder holding a total of 37% shares and is seriously affected by the illegal acts of the Respondent.

3. It is alleged that, the Respondent initiated the proceedings against the CD under Section 7 of IBC in CP(IB)/39(CHE)/2018 by fabricating the documents and falsification of evidence.

4. It is stated that, the CD was initially established by an Englishman named THB Tiffin. Mr. Tiffin sold the CD to a group of Indian promoters. The CD was incorporated as a Public Limited Company in 1945. The management of the CD was taken over by Late Shri. S. Vedam. The CD became one of the largest exporters of minerals in India. The CD was one of the largest taxpayers



in the country. It employed hundreds of people in the States of Andhra Pradesh and Karnataka apart from indirect employment it provided to scores of families.

5. It is stated that, upon the death of Shri. S. Vedam, the Applicant's brother, Shri. Sriram Vedam continued to manage the affairs of the CD. It is stated that, Shri. Sriram Vedam was later diagnosed with cancer and ultimately succumbed to it in the early half of 2018.

6. It is stated that, taking advantage of ill health of Shri. Sriram Vedam and the absence of applicant in India, clandestine plans were made by Mr.Poobalan(R1) to illegally wrest control of the CD from the hands of the Applicant and his family.

7. It is stated that, the Respondent, who was earlier introduced to Shri. Sriram Vedam through an acquaintance and was mistakenly thought to be a trustworthy associate by Shri. Sriram Vedam, was made an authorized signatory of the CD and was given substantial responsibility in respect of the day-to-day functioning of the CD. It is stated that, the 1st Respondent and his aides indulged in misappropriation of funds by entering into frivolous agreements with third parties and siphoned of funds in the guise of payments made to the third parties, which were controlled by the Udhayaman Investments Pvt. Ltd., D&D Exports, Elite Exports and DP Exports etc.

8. It is stated that, the 1st Respondent as an Authorized Representative of Udhayaman Investments Pvt. Ltd filed a Petition under Section 7 of IBC, 2016 against the CD illegally claiming Rs.26,70,46,016/-comprising of 11,50,00,000/- being principle and Rs. 11,73,58,399/- being interest accrued as on 31.03.2017,

IA(IB)/462/2024 along with IA(IB)/2306/2024

In the matter of Tiffins Barytes Asbestos and Paints Limited



by relying on a fabricated document, i.e., Memorandum of Understanding(MoU) dated 16.04.2016 entered between the 1st Respondent and the Corporate Debtor.

9. It is stated that, the 1st Respondent filed the MoU dated 16.04.2016 alleging that an amount of Rs.11,50,00,000/- was given as loan which was in default. It is stated that, the 1st Respondent filed Original MoU before Bellary Court and filed a fabricated MoU before this Tribunal. Comparative inconstancies and discrepancies between the MoUs are as below:

	Original MoU filed in Bellary court	Fabricated MoU filed before this NCLT
1	Serial No: 27AB 430713	Serial No: 27AB 430723
2	Company name: M/s TBAPL BARTYTES ASBESTOS AND PAINTS LTD	Company name: M/s TIFFINS BARYTES ASBESTOS AND PAINTS LTD.
3	Total No of paragraphs 10 Clause 3 not included	Total No of paragraphs 11 Clause 3 included
4	Company seal Not affixed	Company seal Affixed

10. It is stated that, record shows that the movable stock of minerals worth Rs.300.0 Crores was taken over in a clandestine manner by the 1st Respondent for Rs.26 Crores which in itself establishes the fraud played on Shri. Sriram Vedam who had immensely trusted on the 1st Respondent.



11. It is stated that, the 1st Respondent illegally in violation of Section 21 of the Companies Act, 2023 initiated Section 7 of IBC, 2016 without any authority. It is stated that, the 1st Respondent had not produced/adduced any written or oral agreement/contract for entering into the loan transaction. The 1st Respondent had not produced/adduced any proof to the effect that the said amount was received by the Corporate Debtor as a loan having a time value of money which was very vital for initiating Section 7 of IBC, 2016 proceedings.

12. It is stated that, the Respondent has committed the offences affecting the administration of justice. Therefore, this Tribunal may initiate inquiry against the culpable act of the 1st Respondent.

IA/2306/2024

13. The Applicant has filed this application IA(IB)/2306(CHE)/2024 under Sec 379 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) (Previously 340 of CrPC, 1973) for the offence punishable U/s 227 to 229 of Bharatiya Nyaya Sanhita, 2023 (BNS, 2023) (previously 191 to 193 of IPC) read with 424 of Companies Act, 2013 and Rule 11 of NCLT Rules seeking the following reliefs:

- a. *to record a finding to that effect;*
- b. *to make a complaint thereof in writing;*
- c. *to send it to a Magistrate of the First-Class having Jurisdiction;*
- d. *to take sufficient Security for appearance of the Accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the Accused in custody to such Magistrate.*

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e. to bind over any person to appear and give evidence before such Magistrate.

14. It is stated that, the Senior Counsel who had appeared for the 1st Respondent on 18-06-2024 had confirmed that the issue of fabrication and forged documents are the basis for the admission of Section 7 Petition, which resulted in CIR Process against the Corporate Debtor, displacing the Applicant and his late father and late brother who were the erstwhile promoter directors of the Corporate Debtor.

15. It is stated that, the 1st Respondent using his close connections with the mining Barons of Ballery threatened the ailing director resulting in relocation to United States. It is stated that, the 1st Respondent surreptitiously and in a clandestine manner fabricated false accounting records/entries showing the receipt of funds from the sister concern's which are benamis of the 1st Respondent.

16. It is stated that, the 1st Respondent in conspiracy with the 2nd Respondent who was appointed as IRP/RP as result of admission to CIR Process, included all the benamis in addition to the 3rd Respondent IOB.

17. It is stated that, the 3rd Respondent challenged the legitimacy of the other creditors and sought for reconstitution of CoC which was rejected by the 2nd Respondent. It is further stated that, the 3rd Respondent raised the issue of collusion between the 1st and 2nd Respondents but later it did not press for the forensic audit which would have clearly established the false and fabricated records and entries of funds which were never received by the CD.



18. It is stated that, the CoC comprising of benamis of the 1st Respondent decided to pay off the claims of 3rd Respondent in full as first priority in return thus establishing the involvement of the bank officials in the conspiracy which is totally in violation of IBC and against the Public Interest.

19. It is stated that, the CD was having stock worth Rs.300 Crores but it was taken over at Rs.89.43 Crores. It is stated that, as per IBBI valuers – Mott McDonald and Adroit, the fair value of CD was 339.17 crores and 337.45 crores, respectively; the liquidation value was Rs.279.34 crores and Rs.228.61 crores, respectively.

20. It is stated that, the MoU dated 16.04.2016 was the basis for filing the Section 7 petition against the CD. The alleged MoU is a forged document. There are two copies of MoU; One that was presented to the court in Bellary to withdraw the cases and settle the disputes against the Respondent while the other was used to initiate the CIR process.

21. It is stated that, the two MoUs under question were signed on Indian stamp paper in the United States and were neither apostilled by the Embassy nor notarised by the notary public. It is stated that, the witness for the agreements had given their address in India.

22. It is stated that, the two MoUs were subjected to forensic examination. The report of the forensic examination indicates that they are two different documents and there are discrepancies in the contents of the two documents. It is stated that, no originals were produced by the 1st Respondent.



23. It is stated that, the debt of CD was not finalised since the CD had not finalised the audited reports since 2013. It is stated that, the MoU signed by Mr.Sriram Vedam was supposedly backed by a Board Resolution, which happened to be on the same day of signing of MoU.

24. It is stated that, the board meeting authorising Mr.Sriram Vedam is questionable as the CD did not have any AGM for many years. It is further stated that, the signature of Mr. Sriram Vedam was obtained a day before his surgery on his tongue, so the likelihood of making such an important decision was not possible.

25. It is stated that Mr.Sriram Vedam, the Applicant's brother, had stated in his last affidavit that, he never signed the MoU document.

IA(IB)/922/2025

26. This application has been filed by the applicant seeking the following reliefs

a. To declare that the admission of the Corporate Insolvency Resolution Process (CIRP) was illegal and obtained through fraudulent means.

b. To issue a detailed and reasoned order addressing each of the allegations raised, thereby contributing to the jurisprudence on fraudulent initiation of proceedings under the Insolvency and Bankruptcy Code.

c. To impose appropriate penalties and grant such other reliefs as this Tribunal may deem just, in view of the irreparable financial and mental harm caused by the Respondents' unlawful actions.

27. It is stated that, Mr. Poobalan(1st Respondent) fraudulently filed a Section 7 Petition under Insolvency and Bankruptcy Code, 2016, using

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fabricated documents and by manipulating the books of accounts through fictitious transactions.

28. It is stated that, the 1st Respondent as an Authorized Representative of Udhayaman Investments Pvt. Ltd had filed a Petition under Section 7 of IBC, 2016 against the CD claiming Rs.26,70,46,016/-comprising of 11,50,00,000/- being principle and Rs.11,73,58,399/- being interest accrued as on 31.03.2017, by relying on a fabricated document, i.e., Memorandum of understanding dated 16.04.2016 entered between the 1st Respondent and the Corporate Debtor.

29. It is stated that, the 1st Respondent filed a MoU dated 16.04.2016 to establish that the amount of Rs.11,50,00,000/- was given as a loan which was under default. It is stated that, the 1st Respondent filed the Original MoU before Bellary Court and filed a fabricated MoU before this Tribunal.

30. It is stated that, there are Two MoUs dated 16.04.2016. Both the MoU's were sent for forensic examination and the report from the forensic examiner confirmed that the document presented as original was fabricated.

31. It is stated that, Clause 3 of MoU dated 16.04.2016, which was filed before the Tribunal, stipulates an opening of new bank account in the name of TBAPL and all the amounts received by the CD through e-Auction or Private sale shall be deposited in the said account. However, no new account was opened.

32. It is stated that there are other agreements under which the CD gave authority to the 1st Respondent to manage the affairs of the CD. In 2014 the



internal auditor of the CD brought out the fact that during an internal audit, it was noticed that the funds received from the Central Empowered Committee to the bank accounts of the CD were being siphoned / misappropriated / diverted by the 1st Respondent by claiming the same amount, multiple times, from different concerns by falsification of records

33. It is stated that, the MoU dated 16.04.2016 and the signatures found in those documents were not signed by Mr. Sriram Vedam. The documents were also subjected to forensic examination. This proves that, the Applicant always challenged the genuineness of the MoUs.

34. It is stated that, the order dated 12.03.2018 in CP(IB)/39(CHE)/2018 was challenged by the Applicant before Hon'ble NCLAT. The Hon'ble NCLAT also recorded the contention that the CIRP was triggered fraudulently and with malicious intention.

35. It is stated that, there were suppression of material facts and collusion between the 1st Respondent and Mr.Vasudevan (2nd Respondent/ Resolution Professional of CD).

36. It is stated that, there were irregularities in the constitution of CoC. It is stated that, no forensic audit was conducted despite request. This proves that there was collusion between the 1st Respondent and 2nd Respondent.

37. It is stated that, Hon'ble NCLAT dismissed the appeal on the grounds that there is no locus standi during CIRP for the Applicant/shareholders to challenge the CIRP proceedings. It is stated that, the Section 65 of IBC, 2016



does not bar the Applicant to challenge the initiation of CIRP proceedings on the ground of fraud.

COMMON WRITTEN SYNOPSIS FILED BY 1st RESPONDENT

38. It is stated that, the Applicant has not come to this Tribunal with clean hands. He has not disclosed the relevant facts and records pertaining to the litigation. It is stated that, the Applicant had earlier filed the applications before this Tribunal concerning the Company Petition

S. N.	Case No.	Parties	Status
1	MA/120/2019	Ravi Shankar Vedam Vs. Udhyan Investments Pvt. Ltd. & 13 others	Dismissed vide Judgment dated 09.07.2019
2	MA/747/2021	Ravi Shankar Vedam Vs JSW & another	Dismissed as Withdrawn on 21.03.2024
3	MA/843/2021	Ravi Shankar Vedam Vs. Poobalan & another	Dismissed as Withdrawn on 21.03.2024
4	MA/1157/2021	Ravi Shankar Vedam Vs. Vasudevam	Dismissed as Withdrawn on 21.03.2024

39. The Applicant had also filed the appeals concerning the company petition:

S. N.	Case No.	Parties	Status
1	TA(AT). No. 134/2021	Ravi Shankar Vedam Vs. Tiffins Barytes Asbestos and Paints Limited	Dismissed by Hon'ble NCLAT vide Judgment dated 13.06.2023
2	TA(AT). No.135/2021	Ravi Shankar Vedam	Dismissed by

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		Vs. Udhyaman Investments Pvt. Ltd.	Hon'ble NCLAT vide Judgment dated 13.06.2023
3	Civil Appeal No.5516 of 2023	Ravi Shankar Vedam Vs. Tiffins Barytes Asbestos and Paints Limited	Dismissed by Hon'ble Supreme Court vide Judgment 06.11.2023 dated
4	Review Petition (C) No. of 2024 arising out of Diary No. 51138 of 2023	Ravi Shankar Vedam Vs. Tiffins Barytes Asbestos and Paints Limited	Dismissed by Hon'ble Supreme Court vide Judgment dated 13.02.2024

40. It is stated that, the above litigations have been deliberately suppressed by the Applicant from this Tribunal. Having failed in all the earlier attempts and when the CIRP attained finality and resolved by a resolution successfully, which the Applicant had attempted to stall, he has now come up with the frivolous Applications. It is stated that, the Applicant is duty-bound to disclose the aforesaid litigations in the applications but the Applicant concealed the aforesaid litigations from this Tribunal to gain leverage in the applications. As such, the Applicant is not entitled to any relief in the present applications which are liable to be dismissed *in limine*.

41. It is stated that, the Respondent also raises the issue of locus standi of the Applicant to file and maintain the applications before this Tribunal. The Applicant claims himself to be a shareholder of CD. This Tribunal has held that the Shareholder does not have locus to maintain any application during/challenging CIRP. Moreover, the Applicant is no longer the shareholder of the CD.



42. It is stated that, the 1st Respondent is never involved in any illegal activities at any point in time. He always remained a dutiful citizen of the Country. It is stated that, the Applicant is making false and vexatious allegations against the 1st Respondent without any iota of truth or evidence. The Applicant had made similar allegations against the 1st Respondent in the earlier round of litigations detailed hereinabove and the same were negated by the Tribunal, Hon'ble NCLAT and Hon'ble Supreme Court. In order to achieve his hidden agenda, the applicant has filed the present Applications to harass the 1st Respondent in the guise of judicial proceedings.

43. It is denied that, the Respondent had initiated the proceedings under Section 7 of IBC in CP/39/(IB)/CB/2018 by fabricating the documents and falsification of evidence. It is denied that this Tribunal recognised the issue raised by the Applicant in para 11 of the Order in CP(IB)/39(CHE)/2018. It is also false that this Tribunal was only concerned with adjudication of the pleadings in accordance with Section 7 of IBC. It is stated that, this Tribunal did not consider the same since it required inquiry and therefore beyond the jurisdiction and separate proceedings need to be initiated. It is stated that, since the CD defaulted in payment of dues, Udhayaman Investments Pvt. Ltd.(Financial Creditor) filed the petition in CP(IB)/39(CHE)/2018 before this Tribunal. The Petition was admitted by this Tribunal by an Order dated 12.03.2018, which Order was also confirmed by the Hon'ble NCLAT and Hon'ble Supreme Court. As such, there was no fabrication or falsification of documents or evidence as alleged. The Financial Creditor had initiated the proceedings since it was a case of debt and default, which also led to initiation of arbitration proceedings and cheque dishonour proceedings. It finally



culminated into a settlement and an Award was passed in the arbitration proceedings on the basis of the settlement. The criminal proceedings also stood withdrawn. The issue raised by the Applicant in the present application was also raised in the reply to the Company Petition in CP/39/(B)/CB/2018 before this Tribunal and also in the appeals, which were negated by this Tribunal, Hon'ble NCLAT and Hon'ble Supreme Court. Further, the Applicant also raised similar issues in the aforesaid litigations before this Tribunal, Hon'ble NCLAT and Hon'ble Supreme Court and the same was rejected.

44. It is stated that, it is false that taking advantage of the ill health of Mr. Sriram Vedam and the absence of the Applicant, clandestine plans were made to illegally wrest control of the CD from the hands of the Applicant and his family by the 1st Respondent. It is false that the 1st Respondent was introduced to Mr. Sriram Vedam through an acquaintance and it was mistakenly thought to be a trustworthy associate by Mr. Sriram Vedam and he was made an authorized signatory of the CD and given substantial responsibility in day to day functioning of the CD. It is also false that the 1st Respondents and its aids indulged in misappropriation of funds by entering into a frivolous agreement with third parties siphoning off the funds in guise of payments made to the third parties which were controlled by the Respondents. It is stated that the CD which was represented by Mr. Sriram Vedam had made similar allegation in the counter filed in CP(IB)/39(CHE)/2018 and same were negated by this Tribunal vide an order dated 12.03.2018, which was confirmed by the Hon'ble NCLAT and Hon'ble Supreme Court.



45. It is stated that, the 1st Respondent never filed any Petition under Section 7 of IBC against the Company. It was Udhyaman Investment Private Limited (Financial Creditor), which had filed the Petition in CP(IB)/39(CHE)/2018. It is stated that, the MoU and memo of compromise are the documents entered into and relied upon before different forums and there is no fabrication as alleged. It is false that there was a stock of minerals worth Rs. 300 crores and the company was taken over clandestinely by the Respondent for Rs. 26 Crores.

46. It is stated that, the Applicant has admitted that he was out of the country and was never involved in the affairs of the CD. As such the Applicant and the 1st Respondent had no acquaintance with each other. That being the case the 1st Respondent cannot play fraud on the Applicant as alleged by the Applicant.

47. It is stated that, there is no violation of Section 21 of the Companies Act, 2013 as alleged. The loan agreement between the CD and Financial Creditor was well established before this Tribunal through the documentary evidence. After detailed elaborations and discussions, this Tribunal admitted the Petition in CP/39/(IB)/CB/2018 vide Order dated 12.03.2018, which was also confirmed by the Hon'ble NCLAT and Hon'ble Supreme Court.

ANALYSIS AND FINDINGS

IA(IB)/462/2024 & IA(IB)/2306/2024

48. We have heard Ld. Counsels for both the parties and perused the documents on record.



49. The Applicant is the brother of Late Mr.Sriram Vedam, who was the majority shareholder in the CD and the authorised representative of CD. The Respondent No.1, being the authorised representative of the Financial Creditor - Udhayaman Investments Pvt. Ltd, had filed the petition under Section 7 of IBC, 2016. Pursuant to that CD was admitted to CIRP vide an order dated 12.03.2018 in CP(IB)/39(CHE)/2018. The CD in CP(IB)/39(CHE)/2018 was represented by late Mr.Sriram Vedam.

50. It is the case of the Applicant that, the Respondent No.1 forged the MoU document, on the basis of which, the CIRP was initiated. The Financial Creditor (FC) had initiated a case in Bellary Court against the CD and subsequently the MoU was entered between the CD and the FC on 16.04.2016, wherein the CD agreed to pay to the FC an amount of Rs.11,50,00,000/- along with interest, which was given as a loan to CD. It is stated that, the MoU was entered as a compromise between the CD and FC before the Bellary Court.

51. It is the case of the Applicant that, the MoU produced before the Bellary Court is different from the MoU filed before this Tribunal in CP(IB)/39(CHE)/2018.

52. Per contra, the Respondent No. 1 has stated that the Applicant had filed multiple applications seeking similar reliefs, which came to be dismissed. Thereafter, these Applications have been preferred.

53. At this juncture, this Tribunal finds it necessary to extract the relevant portion of the order dated 12.03.2018 passed by this Tribunal in CP(IB)/39(CHE)/2018.



12. Learned Sr. Counsel for the Corporate Debtor has merely submitted that the judicial paper used for drawing up the terms and conditions of the said MoU has been purchased from India and was executed on 16.04.2016 at Tampa, Florida, USA and the margin

witnesses are shown from Chennai and Bellary which are doubtful. But, he was unable to impress upon this Adjudicating Authority that as to how the document is invalid because he has not denied the signature of the Managing Director of the Corporate Debtor, who is one of the signatories to the said MoU.

54. It is pertinent to note that, the CD was represented by late Mr. Sriram Vedam in CP(IB)/39(CHE)/2018, who was also the signatory to the MoU dated 16.04.2016. In the order dated 12.03.2018 it was observed that, the signatory to the MoU himself has not challenged his signature. Presently, the brother of Mr. Sriram Vedam has filed this application alleging that the document produced before this Tribunal in CP(IB)/39(CHE)/2018 is a forged document. This Tribunal finds it difficult to accept the contentions of the Applicant that the MoU filed before this Tribunal in CP(IB)/39(CHE)/2018 is a forged document.

55. It is relevant to extract the provisions under which the Applicant has sought relief. The Applicant has sought for the relief under Section 215 & 379



of Bharatiya Nagarika Suraksha Sanhita, 2023 (BNSS) for the offences under Section 227, 228 and 229 of Bharatiya Nyaya Sanhita, 2023 (BNS).

**PROVISIONS AS TO OFFENCES AFFECTING THE
ADMISNISTRATION OF JUSTICE**

379. Procedure in cases mentioned in section 215.—(1) *When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 215, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, —*

(a) record a finding to that effect;

(b) make a complaint thereof in writing;

(c) send it to a Magistrate of the first class having jurisdiction;

(d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and

(e) bind over any person to appear and give evidence before such Magistrate.

(2) *The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 215.*

(3) *A complaint made under this section shall be signed, —*



(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf. (4) In this section, "Court" has the same meaning as in section 215.

215. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence. —

(1) No Court shall take cognizance —

(a) (i) of any offence punishable under sections 206 to 223 (both inclusive but excluding section 209) of the Bharatiya Nyaya Sanhita, 2023; or

(ii) of any abetment of, or attempt to commit, such offence; or

(iii) of any criminal conspiracy to commit such offence,

except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate or of some other public servant who is authorised by the concerned public servant so to do;

(b) (i) of any offence punishable under any of the following sections of the Bharatiya Nyaya Sanhita, 2023, namely, sections 229 to 233 (both inclusive), 236, 237, 242 to 248 (both inclusive) and 267, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court; or

(ii) of any offence described in sub-section (1) of section 336, or punishable under sub-section (2) of section 340 or section 342 of the



said Sanhita, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court; or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.

The extract of Section 227-229 of BNS is produced here below:

Section 227 Giving False Evidence —Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

...

228. Fabricating false evidence.—Whoever causes any circumstance to exist or makes any false entry in any book or record, or electronic record or makes any document or electronic record containing a false statement, intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous



opinion touching any point material to the result of such proceeding is said “to fabricate false evidence”.

...

229. Punishment for false evidence.—(1) *Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine which may extend to ten thousand rupees.*

(2) *Whoever intentionally gives or fabricates false evidence in any case other than that referred to in sub-section (1), shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine which may extend to five thousand rupees.*

...

56. The Applicant has alleged that the Respondent No.1 has committed the offences under Section 227, 228 of BNS. The Section 227, 228 of BNS pertain to giving false evidence and fabricating false evidence before a court. Section 229 of BNS provides for punishment for offences under Section 227 and 228 of BNS.

57. Section 215 and 379 of BNSS provide the procedure for prosecution under Section 229 of BNS. If any person needs to be prosecuted under Section 229 of BNS, a written complaint from the Court from where such offence is committed is required to be sent to the appropriate Court for initiating prosecution.



58. In the present Applications, the main contention of the Applicant is that the document produced by the Respondent No.1 is a forged document. It is not the case that, Respondent No.1 had given a false evidence under oath or fabricated a false evidence. Therefore, the Applicant's reference to the Section 227, 228 and 229 of BNS is misplaced and **the relief under Section 215 (1)(b)(i) of BNSS would not lie before this Tribunal.**

59. The Applicant has alleged that the document is a forged one. This Tribunal therefore would examine whether the relief under Section 215(1)(b)(ii) of BNSS would be applicable in the present case.

60. In the case of *Jaswinder Singh v Paramjit Kaur, 1986 CrLJ 1398 (P&H)*, it was held that to start prosecution for perjury too readily and too frequently without due care and caution and on inconclusive and doubtful material defeats its very end. The Hon'ble Supreme Court in the case of *Amarsang Nathaji v Hardik Harshadbhai Patel; Civil Appeal No. 11120/2016 decided on 23.11.2016*, has held that there are two pre- conditions for initiating proceedings under Section 340 of Cr. P.C. – (i) materials produced before the court must make out a prima facie case for a complaint for the purpose of inquiry into an offence referred to in section 195(1)(b)(i) of Cr. P.C. and (ii) it is expedient in the interest of justice that an inquiry should be made into the alleged offence. It must be shown that the defendant has intentionally given a false statement at any stage of the judicial proceedings or fabricated false evidence for the purpose of using the same at any stage of the judicial proceedings.



61. In the case of *“Jadu Nandan Singh v Emperor, (1910) ILR 37 Cal 2 50”*, it was held as under:

“Any Civil, Revenue or Criminal Court can proceed under this section and hold preliminary inquiry. It should then record a finding, should itself make a complaint in writing, and forward it to the first-class Magistrate having jurisdiction. No prosecution should be ordered unless there is a reasonable probability of conviction, though the authority taking action should not decide the question of guilt or innocence. Great care and caution are required before the criminal law is set in motion, and there must be a reasonable foundation for the change in respect of which a prosecution is directed.”

62. In the case of *Iqbal Singh Marwah and another vs Meenkashi Marwah and another 2005 4 SCC 370*, the Hon’ble Supreme Court held as under;

33. *In view of the discussion made above, we are of the opinion that Sachida Nand Singh has been correctly decided and the view taken therein is the correct view. Section 195(1)(b)(ii) Cr.P.C. would be attracted only when the offences enumerated in the said provision have been committed with respect to a document after it has been produced or given in evidence in a proceeding in any Court i.e. during the time when the document was in custodia legis.*

(emphasis supplied)

(It is noted that, the Section 215 of BNSS was previously Section 195 of CrPC.)



63. In *Iqbal Singh (supra)*, it was held that if a document is forged even before filing it in the court, Section 195 of CrPC (currently Section 215 of BNSS) would not be applicable.

64. It is not the case of the Applicant that the MoU dated 16.04.2016 was forged in the *custodia legis* of this Tribunal. **Therefore, this Tribunal holds that the relief sought for by the Applicant in IA/462/2024 and IA/2306/2024 under Section 215(1)(b)(ii) would not lie before this Tribunal.**

65. In terms of the above findings, the Applications **IA/462/2024 and IA/2306/2024 are dismissed with no orders as to costs.**

IA(IBC)/922/2025

66. The Applicant has raised a contention that the CP(IB)/39(IBC)/2018 was initiated with fraudulent and malicious intent, thereby attracting Section 65 of the Insolvency and Bankruptcy Code, 2016, and warrants consequences under Section 75 of the Code. For Section 65 to be attracted, the threshold requirement is that the insolvency proceedings must have been initiated with fraudulent or malicious intent, or for a purpose other than the resolution of insolvency or liquidation.

67. Section 65 of IBC, 2016 reads as:

Fraudulent or malicious initiation of proceedings.

(1) If, any person initiates the insolvency resolution process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, as the case may be, the Adjudicating



Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.

(2) If, any person initiates voluntary liquidation proceedings with the intent to defraud any person, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees but may extend to one crore rupees.

(3) If any person initiates the pre-packaged insolvency resolution process

(a) fraudulently or with malicious intent for any purpose other than for the resolution of insolvency; or

(b) with the intent to defraud any person, the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.

68. Section 65(1) of the Code provides that if any person initiates the insolvency resolution process or liquidation proceedings with a fraudulent or malicious intent, the Adjudicating Authority may impose a penalty upon such person. The Hon'ble National Company Law Appellate Tribunal (NCLAT) in *Monotrone Leasing Pvt. Ltd. Vs. PM Cold Storage Pvt. Ltd., [2020] ibclaw.in 21 NCLAT*, reaffirmed this principle, holding that a petition under Sections 7, 9, or 10 of the IBC cannot be rejected solely on the ground of lack of intent for resolution, unless there is explicit documentary proof of fraudulent or malicious intent.

"34. Section 65 of the Code provides for penal action for initiating Insolvency Resolution Process with a fraudulent or malicious intent or for any purpose other than the resolution. However, the same cannot be construed to mean that if a petition is filed under Section 7, 9, or 10 of the Code without any malicious or



fraudulent intent, then also such a petition can be rejected by the Adjudicating Authority on the ground that the intent of the Applicant/Petitioner was not resolution for Corporate Insolvency Resolution Process. As the proceedings under IBC are summary in nature, it is difficult to determine the intent of the Applicant filing an application under Section 7, 9, or 10 of the Code unless shown explicitly by way of documentary evidence. This situation may arise in specific instances where a petition is filed under IBC specifically with a fraudulent or malicious intent."

69. The Hon'ble NCLAT in the case of ***Getz Cables Pvt. Ltd. v. State Bank of India and Anr. Company Appeal (AT) (Insolvency) No.1953 of 2024*** considered the scope of the terms fraudulent and malicious intent. Simply to put, fraud consists of elements of deceit coupled with injury whereas malice is a wrongful act done without lawful justification. The relevant paragraphs of the order are extracted hereunder,

"16. Necessary ingredients, which required to be proved under Section 65, subsection (1) are that proceedings are initiated fraudulently or with malicious intent for any purpose other than for the resolution of insolvency. Both expression - fraudulent and malicious has definite connotation. The expression 'fraudulently' has been explained in Advanced Law Lexicon by P Ramanatha Aiyar 6th Edition in following words:

"Person does a thing fraudulently if he does it with an intent to defraud, and so to constitute fraud two elements are necessary-deceit, and injury and loss to some person."

17. Another expression which occurs in Section 65 is 'malicious intent'. Advanced Law Lexicon by P Ramanatha Aiyar define the word 'malice' in the legal sense in following words:

"1. The intent, without justification or excuse, to commit a wrongful act. 2. Reckless disregard of the law or of a person's legal rights."



There is also a second definition, which is as follows:

"Malice in the legal sense imports (1) the absence of all elements of justifications, excuse or recognized mitigation, and (2) the presence of either (a) an actual intent to cause to particular harm which is produced or harm of the same general nature, or (b) the wanton and wilful doing of an act with awareness of a plain and strong likelihood that such harm may result...."

18. The Hon'ble Supreme Court has defined 'malice' in (2003) 8 SCC 567 Chairman & MD. BPL Ltd. vs. S.P. Gururaja and Ors. in paragraph 21, in following words: "21. Malice in common law or acceptance means ill will against a person, but in the legal sense it means a wrongful act done intentionally without just cause or excuse."

70. The Hon'ble NCLAT in the case of ***Amour Infrastructure LLP Vs. Digital Integrated Technologies Pvt. Ltd. (Company Appeal (AT) (Ins.) No. 884 of 2022 & I.A. No. 2458 of 2022)***, held that an Adjudicating Authority cannot make a finding of fraud/malice unless it is specifically pleaded and backed by documentary evidence. The relevant paragraphs are extracted hereunder

"5. Learned Counsel for the respondent has referred to the findings in paragraph 26 of the order which is to the following effect:

"From these facts, we have got reasonable basis to reach to a conclusion that application filed under Section 7 is a mechanism whereby financial creditor is trying to settle personal scores and put undue pressure on the corporate debtor. hence, we have no hesitation in holding that this application has been filed with malicious intent and for purposes other than the Resolution of Insolvency of the Corporate Debtor. We further find that corporate debtor is a solvent company"

8. Observations made in paragraph 26 is that Financial Creditor is trying to settle personal scores and put undue pressure on the Corporate Debtor. We are of the view that for proving the ingredient of Section 65 there has to be adequate pleadings and findings. Observations made in paragraph 26 does not fulfil the requirement of Section 65 so as to reject the Section 7 application."



71. This principle has also been reinforced in the case of *M/s. Flycreative Online Private Limited v. GO Airlines (India) Limited (Int. Petition No. 68/2023)*, the *Hon'ble National Company Law Tribunal (NCLT), New Delhi*, wherein the Tribunal examined the allegations of fraudulent and malicious intent in insolvency proceedings. The Tribunal emphasized that for an application to be considered malicious under Section 65, there must be substantial and corroborative evidence proving fraudulent intent. It was observed that merely failing to inform creditors about the intention to file for insolvency, does not, by itself, establish malice unless supported by concrete evidence.

"10. In terms of Section 65 of the Insolvency and Bankruptcy Code, 2016, there must be substantial and corroborative evidence to explicitly prove 'fraudulent intent', 'malice' and 'mens rea' on part of the CD by way of specific documentary evidence and also that the Applicant approached with malicious intent for any purpose other than for the resolution of insolvency."

72. It is, thus, evident that to attract Section 65, the burden lies on the objecting party to place on record compelling and credible evidence to prove that the Petitioner has approached the Adjudicating Authority with mala fide intent or for purposes extraneous to the resolution process.

73. In the instant case, the Applicant / Corporate Debtor Tiffins Barytes Asbestos and Paints Limited in the petition CP/39/2018 had raised an issue that MoU dated 16.04.2016 is a fabricated document. This Tribunal in the order dated 12.03.2018 initiating the CIRP against the Corporate Debtor held that the Corporate Debtor failed to substantiate its claim by placing any

IA(IB)/462/2024 along with IA(IB)/2306/2024

In the matter of Tiffins Barytes Asbestos and Paints Limited



evidence on record. The issue regarding use of judicial paper for drawing up the terms and conditions of the MoU having been purchased from India and executed on 16.04.2016 at Tampa, Florida, USA and margin witnesses having been shown from Chennai and Ballary raising doubt on the authenticity of the MoU was also raised. The Tribunal held that the Corporate Debtor failed to impress how the document is invalid because in the document the signatures of the Managing Director of the Corporate Debtor, one of the signatories to the MoU were not denied.

74. The Corporate Debtor also challenged the approval of the resolution plan of the Tribunal before Hon'ble NCLAT where also similar issue was raised. The Hon'ble NCLAT vide order dated 13.06.2023 did not find any infirmity in the order of the Tribunal approving the plan and rejecting MA/120/2019. It was observed in the order at para 29 that the admission order dated 12.03.2019 was also challenged by one of the Directors in CA/116/2018 and the appeal was dismissed vide an order dated 31.07.2018 confirming the order of the Tribunal under Section 7 of IBC. It was recorded in the order that the Tribunal vide an order dated 27.03.2019 in IA/503/2019 has already decided that Mr. Poobalan is not in any way related to the Corporate Debtor and his relationship was only as an agency. In the order, the case of *Embassy Property Developments Private Limited Vs. State of Karnataka & Ors. (2020) 13 SCC 308* referred by the Applicant in the present applications was discussed referring the assertions of the Appellant / Corporate Debtor that serious allegations of fraud have not been dealt with by the Tribunal. It was held that the CoC in the meeting held on 24.10.2018 had deliberated on the financial statements, rejected the draft audit report and decided to appoint



another Auditor. The CoC also rejected the conduction of forensic audit by a majority of 91.9%. The Hon'ble Supreme Court in Civil Appeal No. 5516 / 2023 vide order dated 06.11.2023 also dismissed the appeal observing that they do not find any good ground or reason to interfere with the impugned judgment. The review petition was also dismissed by the Hon'ble Supreme Court vide order dated 13.02.2024 holding that no case of review of the order dated 06.11.2023 is made out.

75. In the present applications, the Applicant has placed the report of an handwriting expert Truth Labs Forensic Services dated 12.08.2019 in respect of the MoUs referred in the applications. **It was opined by the expert that the person who signed the red enclosed standard signature stamped and marked S1 to S26 also signed the red enclosed questioned signatures stamped and marked Q1a to Q6a and D1a to D6a. It was also observed that the computer typed contents in both the MoU documents bearing the markings Q1 to Q6 and D1 to D6 are same.**

76. It is the case of the Applicant that, the forensic examination of the MoU was conducted to check the genuineness of signature. However, the said forensic report does not provide a report to the extent that the signatures were forged. Mere subjecting the documents to forensic examination does not prove the case of the Applicant.

77. It is also the case of the Applicant that, there are two MoUs and the forged document was filed before this Tribunal. It is pertinent to mention that, the said contention was not raised in the CP/39/2018 by the Corporate Debtor. Notably, the Corporate Debtor was represented by Late Sriram Vedam in



CP/39/2018. Late Sriram Vedam representing the Corporate Debtor in CP/39/2018 did not content that his signature was forged.

78. The Tribunal had passed a detailed order taking into consideration all the material facts on record qua initiating the insolvency proceedings against the Corporate Debtor. The plan was approved by the Tribunal which was challenged up to the Hon'ble Supreme Court and the Hon'ble Appellate Courts upheld the order of the Tribunal approving the plan. It appears that by moving the above applications, the Applicant is reagitating the issue alleging fraud, though all the issues relating to the admission of the Corporate Debtor into CIRP and approval of plan have attained finality. Further, the plan has been fully implemented and this Tribunal cannot venture into the allegations raised in the present applications by virtue of the orders of Hon'ble Appellate Courts.

79. This Tribunal therefore holds that, the Applicant has failed to provide any corroborative or substantial evidence to explicitly prove fraudulent intent to initiate CP/39/2018. Thus, in the absence of any compelling record or evidence, this Application **IA(IB)/922(CHE)/2025** is **dismissed with no orders as to costs.**

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)