

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 222 of 2026

[Arising out of the Impugned Order dated 15.12.2025 passed by the Adjudicating Authority, National Company Law Tribunal, Ahmedabad Bench in I.A. Nos. 1316(AHM)/2024 and 643(AHM)/2025 in C.P. (IB) No. 251/(AHM)/2022]

In the matter of:

GOPAL TRADING COMPANY

Through its Proprietor

Mr. Gopalbhai Jayantibhai Selani

Address: Shastrinagar, Gondal

Rajkot, Gujarat - 360311

Email: shelanigopal@gmail.com

.... Appellant

Versus

**1. MR. RAVINDRA KUMAR GOYAL,
RESOLUTION PROFESSIONAL OF
MATRUSHRI FIBRES PRIVATE LIMITED**

R/o: Eighth Floor, I 807, Godrej Garden City,
Behind Nirma University, Jagatpur Village,
Ahmadabad, Gujarat, 382481

Office at: Eden I-807,

Godrej Garden City Jagat Pura, SG Highway,
Ahmedabad Gujarat - 382470

Email: ravindra1960_goyal@yahoo.co.in

.... Respondent No.1

2. ASSISTANT COMMISSIONER OF GST

Having its office at:

CGST Division, Rajkot – II

GST Bhawan, Race Course,

Ring Road, Rajkot – 360001

.... Respondent No.2

3. ASSISTANT COMMISSIONER OF STATE TAX DEPARTMENT

Having its office at:

State Tax Officer-3, Unit -94,

Taluka Seva Sadan, 2nd Floor

Station Pilot, Gondal – 360311

.... Respondent No.3

Present:

For Appellant : Mr. Karan Valecha and Mr. A. Dwivedi, Advocates.

For Respondent : None.

J U D G M E N T
(Hybrid Mode)

Per: Barun Mitra, Member (Technical)

The present appeal filed under Section 61 of Insolvency and Bankruptcy Code 2016 (“**IBC**” in short) by the Appellant arises out of the Order dated 15.12.2025 (hereinafter referred to as “**Impugned Order**”) passed by the Adjudicating Authority (National Company Law Tribunal, Ahmedabad Bench-I) I.A. Nos. 1316(AHM)/2024 and 643(AHM)/2025 in C.P. (IB) No. 251/(AHM)/2022. By the impugned order, the Adjudicating Authority has allowed I.A. Nos. 1316(AHM)/2024 and 643(AHM)/2025. Aggrieved by the impugned order, the present appeal has been preferred by the Appellant-Operational Creditor.

2. Coming to the brief facts of the case, Gopal Trading Company-Operational Creditor/Appellant had filed a Section 9 application under IBC which led to admission of the Corporate Debtor-Matrushri Fibres Private Limited into CIRP on 25.09.2023. The Interim Resolution Professional after verification and collation of claims constituted the Committee of Creditors (“**CoC**” in short). The IRP was later confirmed as Resolution Professional (“**RP**” in short). The CoC consisted only of two Operational Creditors viz. Assistant Commissioner of GST and Assistant Commissioner of State Tax holding 95.01% and 4.99% vote-share

respectively. During the conduct of CIRP proceedings, the IRP had issued several communications to the suspended management of the Corporate Debtor seeking statutory financial records which did not elicit any response from the suspended management. The RP had also issued communications to the Appellant for deposit of CIRP costs which the Appellant did not initially deposit on grounds of financial constraints. This had led the RP to initiate contempt proceedings against the Appellant following which Rs. 2 lakh was deposited towards CIRP cost on 29.08.2024. On finding that the CIRP was not making much meaningful progress due to non-cooperation from the suspended management in making available necessary information/ documents/records of the Corporate Debtor, the Respondent No.1-RP preferred IA No. 1316 of 2024 against the members of CoC seeking directions for inter-alia the closure/termination of the CIRP; for direction to the CoC members to pay the RP fees and expenses incurred besides discharge of the RP from the CIRP of the Corporate Debtor. The Appellant was however not impleaded as party in IA No. 1316 of 2024. While the IA No. 1316 of 2024 was being heard, the RP-Respondent No.1 also filed an IA No. 643 of 2025, in which the Appellant was arrayed as a party, seeking directions of the Adjudicating Authority to declare that the Section 9 petition was initiated by the Appellant-Operational Creditor fraudulently with malicious intent and for purpose other than resolution of the Corporate Debtor and for levy penalty in terms of Section 65 on the Appellant. The Adjudicating Authority after hearing both IA No. 1316 of 2024 and IA No. 643 of 2025 disposed them of with a common impugned order terminating the CIRP of the Corporate Debtor alongwith direction to the Appellant to pay a penalty of Rs. 10 lakhs for

fraudulent initiation of CIRP; pay CIRP related costs of Rs.6 lakhs which was in addition to the Rs. 2 lakhs which had already been paid earlier. Aggrieved by this impugned order, the present appeal has been preferred by the Appellant.

3. Submission was made by the Ld. Counsel for the Appellant that the Appellant was a small-time business entity which had already suffered business/financial losses and hence the cumulative burden of Rs. 18 lakhs toward penalty, RP's fees and CIRP expenses imposed by the Adjudicating Authority vide the impugned order had caused grave and irreparable injury to the Appellant. Assailing the impugned order, submission was pressed that when the Adjudicating Authority had itself admitted the CIRP after due adjudication of the existence of the operational debt and default way back in 25.09.2023 and this CIRP admission order had already acquired finality, the impugned order by reversing its earlier order by holding the CIRP initiation to be fraudulent/malicious suffered from inconsistency and incongruity both in terms of fact and law. Stagnation of CIRP was the central reason on which the CIRP admission order was reversed by the impugned order. However, this stalemate was not caused by any act of omission or commission on the part of the Appellant but was entirely caused by persistent non-cooperation from the suspended management. Yet inspite of the purported non-cooperation from the suspended management, the RP did not take any coercive or corrective steps under Section 19(2) of the IBC to ensure cooperation of the suspended management. Hence, the RP being responsible for the slow and negligible progress of CIRP, it could not have held the Appellant responsible for contributing to the stagnation of CIRP and made liable to suffer penalty under Section 65 of IBC. Pressing further that

the Appellant was not impleaded as a party in IA No. 1316 of 2025 which had been filed by the RP for closure/termination of the CIRP, the matter having been heard ex-parte against them, the Appellant was unfairly subjected to substantial and disproportionate financial liability by imposition of CIRP related costs and levy of penalty on the Appellant.

4. We have duly considered the arguments advanced by the Learned Counsel for the Appellant and perused the records carefully.

5. To commence with our analysis on the tenability of the contentions raised by the Appellant, we would like to begin by first outlining the prayers contained in I.A No. 1316 of 2024 and IA No. 643 of 2025. The prayers are as reproduced below:

I.A. No.1316 of 2024

- “a. Pass appropriate orders to close/terminate the CIRP initiated against the Corporate Debtor and pass other and further consequential orders including in relation to discharge of the Applicant as Resolution Professional;*
- b. Pass appropriate orders directing the COC members of the Corporate Debtor to pay the RP fees and reimburse the CIRP expenses incurred by the Resolution Professional as mentioned at Annexure LL;*
- c. Pass any other order(s) that this Hon'ble Tribunal may deem fit.”*

I.A. No.643 of 2025

- “a. Pass appropriate order declaring that CP(IB) No. 251 of 2022 has been initiated by the Respondent fraudulently and/or with malicious intent for purpose other than for the resolution of insolvency of the Corporate Debtor and further this Adjudicating Authority be pleased to pass appropriate order levying penalty as per Section 65 of the IB Code on the Respondent;*

b. Pass any other order(s) that this Hon'ble Tribunal may deem fit.”

6. Next, we advert our attention to the prayers urged by the Appellant as contained in the present appeal petition which is before us for our consideration which is as reproduced below:

“a. Be pleased to allow this Appeal.

b. Be pleased to quash and set-aside the Impugned Final Order and Judgment dated 15.12.2025 passed by the Ld. National Company Law Tribunal, Ahmedabad Bench, Court-I in I.A. No. 643/ 65/ NCLT(AHM)2025 IN CP(IB) No. 251/9(AHM)2022.

c. Be pleased to quash and set aside the imposition of penalty of Rs 10,00,000 and the direction fastening Resolution Professional fees and CIRP costs amounting to Rs 6,00,000 upon the Appellant, as directed under the Impugned Order;

d. Be pleased to pass such other or further or orders as may be necessary and expedient in the facts of this case.”

7. When we look at the prayers above, it is adequately clear that the Appellant has sought that the order of the Adjudicating Authority passed in IA No. 643 of 2025 be set aside. This order of the Adjudicating Authority which has been impugned held that the CIRP proceeding had been initiated fraudulently and/or with malicious intent for purpose other than insolvency resolution by the Appellant besides imposition of penalty of Rs 10 lakhs and fastening of fees of RP and CIRP costs amounting Rs 6 lakhs on the Appellant. The prayers in the present appeal, however, makes no reference to IA No. 1316 of 2024.

8. It is the case of the Appellant that the Adjudicating Authority had exceeded their jurisdiction in holding the initiation of CIRP to be fraudulent and malicious

at a time when the same Adjudicating Authority had itself admitted the CIRP vide its order dated 25.09.2023 after recording existence of debt and default. In such circumstances, it was not correct on the part of the Adjudicating Authority to hold that the CIRP proceeding was fraudulently initiated. The Respondent No.1-RP had conducted the CIRP proceedings over a long period of two years during which several CoC meetings were also held. Thus, after CIRP had effectively run its course for two years, the invocation of Section 65 by the RP thereafter and holding the CIRP initiation to be fraudulent was arbitrary and untenable. It was also contended that Section 65 of IBC requires strict construction and IA No. 643 of 2025 could not have been admitted merely on the grounds of non-filing of claim by the Appellant-Operational Creditor. Further contention had been raised that when the Appellant had chosen to stay out of CoC proceedings and had also paid advance CIRP cost, they were being dragged into unnecessary litigation by the Respondent No.1 by filing IA No. 643 of 2025 under Section 65 of IBC. It was also their vehement contention that the Adjudicating Authority could not have directed the Appellant to discharge the CIRP costs as it is the CoC which is obligated to bear the fees of RP and CIRP expenses. The impugned order while imposing the penalty also failed to record reasons to justify imposition of such heavy penalty without disclosing the basis for quantifying the penal amount.

9. When we look at the material on record, we find that Respondent No.1-RP had filed IA No. 643 of 2025 in which a prayer had been clearly made that the CIRP initiation order having been fraudulently and maliciously initiated other than for purposes of resolution of insolvency of the Corporate Debtor, the

Adjudicating Authority may order closure of the CIRP and levy penalty on the Appellant in terms of Section 65. At the very threshold, we would like to observe that insofar as IA No. 643 of 2025 is concerned, it is an undisputed fact that the Appellant had been impleaded as a party therein and therefore afforded an opportunity to appear before the Adjudicating Authority. The Appellant having also filed their reply in IA No. 643 of 2025 cannot claim any prejudice on grounds of breach of principles of natural justice.

10. Now we come to the main bone of contention as to whether the CIRP was initiated by the Appellant in a fraudulent/malicious manner which attracted Section 65 of the IBC. When we glance at the contours of Section 65 of the IBC, we find that this statutory provision embodies a clear legislative fiat that insolvency resolution process shall not be invoked fraudulently or with malicious intent for any purpose other than resolution of insolvency. This statutory provision therefore empowers the Adjudicating Authority to interdict the abuse of CIRP process at any stage, if the Adjudicating Authority is satisfied from the surrounding facts and circumstances on record, of fraud and/or malicious intent on the part of any party seeking admission of CIRP of the Corporate Debtor. Quite apart from the fact that Section 65 application can be entertained at any time or at any stage of the CIRP proceeding, the plain reading of Section 65 also leaves no doubts in our minds that there is no need of any formal application for its invocation and the Adjudicating Authority is well within its rights to take suo-moto cognizance of any such development at any stage of the proceedings.

11. When we look at the facts of the present case, it is an indisputable fact that the RP had filed the IA No. 643 of 2025 for declaring the CIRP as one tainted by fraudulent and malicious invocation. It is an undisputed fact that the statutory period of 180 days had already expired and the CIRP had entered into a phase of stagnation with no signs of registering further progress. It is the case of the Appellant that when the RP had continued on with the conduct of CIRP for a protracted period of 2 years, the RP could not have abruptly turned volte face thereafter to claim that the CIRP admission was fraudulent in nature.

12. We have already noticed in the preceding paragraph that in terms of the statutory construct of Section 65 of IBC, there is no ring-fencing in terms of timing as to when the Adjudicating Authority can initiate Section 65 proceedings. This coupled with the over-arching principle that the Adjudicating Authority is obligated to take necessary safeguard to ensure that the IBC framework is not abused or leveraged in any manner to perpetrate fraud, leaves no room for the Appellant to raise the bogey that the Adjudicating Authority could not have initiated the Section 65 proceedings after a period of two years. Merely because CIRP had been admitted and CIRP proceedings was thereafter continued by the RP, that clearly did not preclude the filing of a Section 65 application and the Adjudicating Authority is also not barred in any manner from adjudicating upon such Section 65 application.

13. Another defence taken by the Appellant is that they had at no stage acted in the manner which obstructed or delayed the CIRP process and that they had complied to all directions issued during CIRP including deposit of CIRP cost. It was contended that merely because the CIRP did not reach its logical

culmination, this cannot constitute a valid ground for invocation of Section 65 of IBC. Moreover, the Appellant cannot be put to blame if the RP for his own shortcomings could not effectively proceed with the conduct of CIRP proceedings. It is the case of the Appellant that it was the RP who was responsible for the stagnation of the CIRP process since he failed to invoke the statutory remedy available to him under Section 19(2) of the IBC to take corrective steps against the suspended management of the Corporate Debtor for not cooperating with the RP in furnishing relevant information necessary for pursuing the CIRP proceedings.

14. The issue before the Adjudicating Authority was not what caused the delay in the CIRP proceedings but whether the CIRP proceedings had been fraudulently and/or maliciously initiated and was fit to be terminated in view of the same. The Section 9 application having been initiated by the present Appellant, the Adjudicating Authority has rightly focussed on the facts and circumstances on record to view the conduct of the Appellant.

15. We find that the Adjudicating Authority in the impugned order took notice of the fact that the Appellant had filed the Section 9 application on the basis of an outstanding operational debt of Rs 3.80 Cr. and that after the Section 9 application was admitted and moratorium had commenced, the Appellant surprisingly slipped into a hibernation mode and did not file any claim in pursuance of public announcement made by the RP. The reasons for not filing their claim have also not been disclosed before the RP by the Appellant. This glaring omission to file claims on part of the present Appellant had rightly arrested the attention of the Adjudicating Authority in finding the conduct of the

Appellant to be unusual. This conclusion of the Adjudicating Authority was well justified as the standard and usual response of any operational or financial creditor is to file their claims as and when a Corporate Debtor is admitted into insolvency particularly so when it is their own Section 9 application which led to CIRP of the Corporate Debtor. The Adjudicating Authority had rightly concluded that the intent behind filing the Section 9 application was not genuine in view of the fact that the Appellant who had initiated the Section 9 application, for inexplicable reasons, absented themselves from further participation in the CIRP proceedings including abstention from the filing of claims. In this backdrop, the Adjudicating Authority did not commit any infirmity in proceeding to examine whether this omission on the part of the Appellant to file their claims was deliberate and whether this conduct was a pointer to the fact that the purpose of filing the Section 9 application was motivated by reasons other than corporate insolvency.

16. At this stage, it is also pertinent to note that the only claims filed in the CIRP process was from two entities viz. Assistant Commissioner of GST and Assistant Commissioner of State Tax, which were authorized to collect statutory taxes. The recovery of taxes by these two entities was no longer possible because of moratorium having come into play following the admission of CIRP. The outstanding tax liability also stands validated by the fact that the Tax Departments in their claims had submitted substantial amounts as statutory dues outstanding against the Corporate Debtor for past years. The Adjudicating Authority has therefore rightly noticed that the initiation of CIRP followed by moratorium barrier coming into existence under Section 14 coincided with

pending recovery actions by the Tax Departments. Thus, what seems to underpin the reason for triggering CIRP proceedings was clearly to circumvent the tax liability. It is clearly evident from the timing of CIRP admission that the moratorium provision was being put to use by the Appellant to shield themselves from their tax liabilities and not as a genuine resolution tool.

17. This brings us to the ostensible reasons adduced by the Appellant for not filing claims. This was attributed by them to their ignorance of the scheme of IBC and CIRP procedures due to lack of education. We find that this plea has been duly considered by Adjudicating Authority in the impugned order. The Adjudicating Authority has correctly observed that if the Appellant could have pursued the Section 9 application with all vigour at their command and taken it forward to its logical culmination, it clearly denotes that the Appellant was fully aware of the IBC framework and its ramifications. Further, the Appellant by their own admission has also stated that they had issued a legal notice to the Corporate Debtor on 11.01.2022 as placed at page 399 of the Appeal Paper Book wherein they had called upon the Corporate Debtor to make payment of Rs 3.90 Cr. of outstanding operational debt. The issue of legal notice and lodging of police complaints by the Appellant also shows that the Appellant was meticulously preparing for the legal battle they had chosen to enter into. Given this background, the plea taken by the Appellant that they did not file the claims because of lack of legal awareness is an after-thought which lacks credibility. In this backdrop, the Adjudicating Authority cannot be said to have taken an arbitrary stand in not accepting this hollow plea of the Appellant to explain the non-filing of claims. Such opacity of reasons for invoking Section 9 and yet not

filing claims justifies the finding returned by the Adjudicating Authority that the CIRP was initiated for fraudulent reasons which tantamount to a clear abuse of the insolvency framework.

18. The Adjudicating Authority has further noticed that the Appellant was related to the director of the Corporate Debtor and that this familial relationship was extremely close a relationship as they were real brothers. It has also been noticed by the Adjudicating Authority that the Appellant was also a director of the Corporate Debtor for some period of time. These facts have not been controverted by the Appellant except that it was pointed out that the Appellant was a director of the Corporate Debtor only for a very brief period. Be that as it may, we tend to agree with the Adjudicating Authority that when the family links are kept in mind alongwith the fact that the Appellant was also an ex-director of the Corporate Debtor coupled with non-pursuit of their claims arising out of debt owed by the Corporate Debtor clearly establishes that the purpose was not resolution of insolvency but to prevent recovery proceedings by CGST and GST Department.

19. Since Section 65 is designed to deter misuse and protect the integrity of the insolvency framework, the Adjudicating Authority was not off the mark in examining the overall conduct of the Appellant in the surrounding circumstances and in satisfying itself that the threshold elements of malicious intent was met in the facts of the present case. The Adjudicating Authority had not committed any error in imposing penal/compensatory amounts on the Appellant as Section 65 clearly provides for penal costs as a punitive measure in

case of abuse of the process of law and to protect the integrity of the insolvency framework.

20. This brings us to the question of whether the Adjudicating Authority was correct in holding that the Appellant should bear the fees of the RP and the CIRP expenses. On the face of it, we quite agree with the Appellant that in terms of CIRP Regulations, such costs are ordinarily met from the assets of the Corporate Debtor or through CoC. Be that as it may, we are inclined to agree with the Adjudicating Authority that the present is however not a case where CIRP proceedings were taken up in normal circumstances. In the present case, the CoC consisted of only two tax entities who had filed their claims on the basis of their tax liabilities recoverable from the Corporate Debtor. The Tax Departments which were the only constituents of the CoC had not initiated the CIRP proceedings. The CIRP process also gradually slid into the path of turning non-viable with the CoC stopping to function altogether after a while. Hence for reasons of equity, the CoC in the present case could not be made to bear the financial implications of the CIRP proceedings for reasons of equity. The RP was thus left with no option but to carry on with his statutory obligations by funding the CIRP process from own resources. Given the absence of assets and a non-functional CoC coupled with prima-facie abuse of the CIRP proceedings by the Appellant for reasons other than seeking insolvency resolution of the Corporate Debtor having been established, the Adjudicating Authority in the present factual matrix, cannot be said to have faulted in exercising its residuary jurisdiction to hold that fees/expenses of RP shall be borne by the Appellant being the original Operational Creditor.

21. In result, we find no merit in the appeal and find no cogent reasons to interfere with the impugned order in any manner. The Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

**Place: New Delhi
Date: 17.03.2026**

Abdul