NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) No. 280 of 2026

[Arising out of the Impugned Order dated 09.07.2026 passed by the 'Adjudicating Authority' (National Company Law Tribunal, New Delhi in Company Petition No. 157/241-242/ND/2019]

IN THE MATTER OF:

1. **Mr. Nikhil Rai**
Address: D - 373, Defence Colony,
New-Delhi - 110024 **...Appellant No.1**

2. **Mr. Nitin Singhal**
Address: A- 43, Shivalik,
New-Delhi-110017 **...Appellant No.2**

Versus

1. **M/s Vcare Technologies Private Limited**
I-10, Lajpat Nagar - II,
New Delhi-110024
Also at Plot No, 66, Upper Ground Floor,
Okhla Industrial Estate, Phase 3,
South Delhi, New Delhi-110020 **... Respondent No.1**

2. **Mr. Vishal Gupta**
Flat No. 302, 2nd Floor, Botanica,
Near Arya Samaj Mandir,
South Delhi-110049 **... Respondent No.2**

3. **Mrs. Bhagwati Devi**
Flat No. 302, 2nd Floor, Botanica,
Near Arya Samaj Mandir,
South Delhi-110049 **... Respondent No.3**

4. **Startup Investments (Holding) Limited**
Ground Floor, No. GF-12A,
94, Meghdoot, Nehru Place,
New Delhi-110021 **... Respondent No.4**

5. **Sumit Khurana**
G-47, Ground Floor, East of Kailash,
New Delhi-110065 **... Respondent No.5**

6. **Union of India**
Represented by its secretary,
Ministry of Corporate Affairs,
Shastri Bhawan, Dr. Rajendra Prasad Road,
New Delhi - 110001 **... Respondent No.6**

7. **Registrar of Companies (RoC)**
4th Floor, IFCI Tower 61,
Nehru Place, Delhi-110019 **... Proforma Respondent No.7**

Present:

For Appellant : Mr. Kaustubh Narendran, Mr. Rohan Naik, Ms. Ranjana Roy Gawai, Ms. Vasudha Sen, Mr. Vineet Wadhwa, Ms. Somya Pandey and Mr. Shreyash, Advocates.

For Respondent : Mr. Gaurav Choubey, Mr. Hardik Aggarwal and Mr. Vatsal Anand, Advocates for R-1 to 3.

Mr. Utkarsh Joshi, Ms. Kanishka Sharma and Ms. Ishika Sehgal, Advocates for R-5.

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

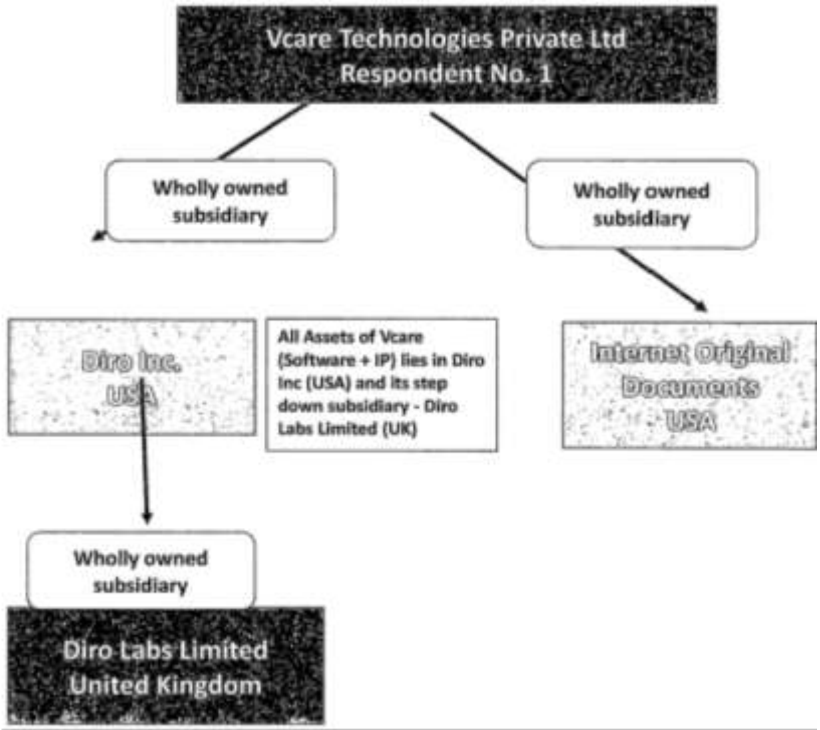
[Per: Arun Baroka, Member (Technical)]

The present Appeal is against the Judgment dated 09.07.2026 ("Impugned Order") passed by the Ld. National Company Law Tribunal, New Delhi Bench-IV (Ld. NCLT) in Company Petition No. 157/241-242/ND/2019 and I.A. No. 78/2025, whereby the Company Petition filed by the Appellants under Sections 241 and 242 of the Companies Act, 2013 has been dismissed and I.A. No. 78/2025 – an application filed by Respondents No. 1 and 2 alleging acts of perjury - has been allowed.

Submissions of the Appellants:

2. The Petition concerns the affairs of the Respondent No. 1 company, M/s VCare Technologies Private Limited ["the Company"], a private limited company registered in New Delhi. The Company is engaged in the business of

developing various technological products. The Company is the holding company of its subsidiaries and step-down subsidiaries.



3. Respondent No. 1 is the parent company of a wholly-owned subsidiary, Diro Inc., incorporated in Delaware, United States of America, which in turn held a wholly-owned subsidiary, Diro Labs Limited, incorporated in the United Kingdom. The principal value of assets of Respondent No. 1 lay in the intellectual property, technology, software and business developed over several years under the guidance of Appellant No. 1, which was vested in the aforementioned overseas subsidiaries.

4. The position of other parties in relation to the Company is as under:

- **Appellant No. 1, Mr. Nikhil Rai ["A1"]** – former promoter, former chief-operating officer and former director of the Company. A1 holds 5141 equity shares representing ~7.93% of the Company. **Appellant No. 2, Mr. Nitin Singhal ["A2"]** – early seed investor of the

Company. A2 holds 2170 equity shares representing ~3.35% of the Company. A1 and A2 collectively hold ~11.28% paid-up share capital of the Company.

- **Respondent No. 2, Mr. Vishal Gupta ["R2"]**– promoter, chief-executive officer and director of the Company. R2 claims to hold 37,857 equity shares representing over 77.2% paid up share capital of the Company.

- **Respondent No. 3, Mrs. Bhagwati Devi ["R3"]**, is a director of the Company. R3 is the mother of R2. On and from June 2018, R2 has singularly controlled the management of the Company and its wholly-owned subsidiaries.

- **Respondent No. 4, Startup Investments (Holding) Limited ["InfoEdge"/ "SIHL"/ "R4"]**, is an institutional investor of the Company holding optionally-convertible preference shares (fully diluted @14.80%) against investment in the year 2016. Admittedly, the preference shares of R4 have not been converted to equity shares. R4 has not participated in proceedings before the Ld. NCLT or before this Appellate Tribunal.

- **Respondent No. 5, Mr. Sumit Khurana ["R5"]**, is a creditor of the Company and holds 1 equity share of the Company. R5 was not originally a party to the Company Petition but was later impleaded.

5. The Appellants are the shareholders holding approximately 11.28% of the paid-up share capital of Respondent No. 1. Appellant No. 1/Mr. Nikhil Rai was also a director of Respondent No. 1/VCare Technologies Private Limited. On 01.06.2018, Appellant No. 1/Mr. Nikhil Rai resigned from the position of the director and on 14.07.2018 resigned from full time employment, however, continued to remain a shareholder of Respondent No. 1/VCare Technologies Private Limited. Post the resignation of Appellant No. 1/Mr. Nikhil Rai from the management of Respondent No. 1 Company,Respondent No. 2/Mr. Vishal Gupta and Respondent No. 3/Mrs. Bhagwati Devi, who were in complete control of the affairs and management of Respondent No. 1/VCare Technologies Private Limited, commenced implementing a series of decisions and transactions that were alleged to be oppressive to the Appellants and prejudicial to the interests of Respondent No. 1 Company.

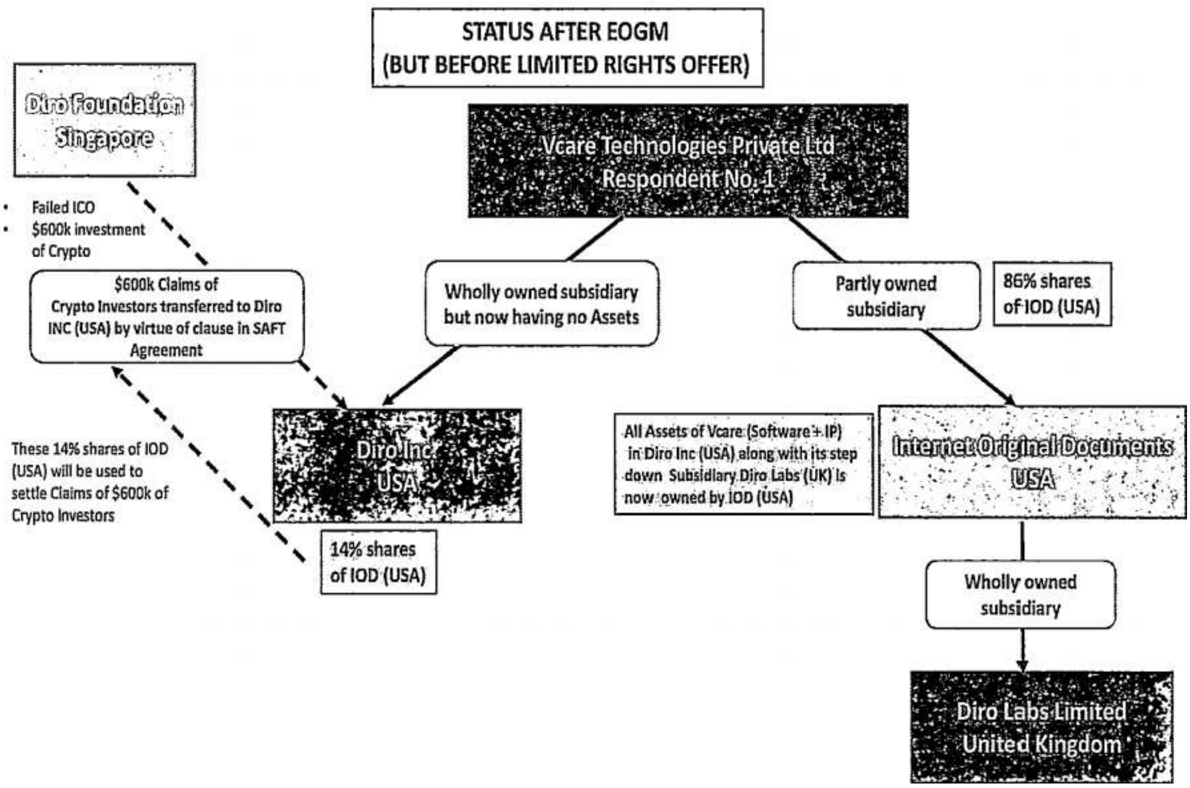
6. Following the resignation of Appellant No. 1/Mr. Nikhil Rai from the management of Respondent No. 1/VCare Technologies Private Limited, Respondent No. 2/Mr. Vishal Gupta devised a calculated scheme to divest Respondent No. 1/VCare Technologies Private Limited of its most valuable assets, namely its intellectual property, technology, goodwill and business held through its wholly owned subsidiary, Diro Inc. (USA), and its subsidiary, Diro Labs (UK). In furtherance of the said scheme, Respondent No. 2, had incorporated a new company in August 2019, namely Internet Original Documents Inc., United States ("IOD"), as a wholly owned subsidiary of Respondent No. 1. The incorporation of IOD was not a bona fide business decision, but formed an integral part of the restructuring which was devised

by Respondent No. 2/Mr. Vishal Gupta, whereby IOD was intended to serve as the vehicle for transferring the business, assets and intellectual property of Diro Inc. and Diro Labs (UK), followed by the dilution of Respondent No. 1's shareholding therein through a preferential and heavily discounted allotment of shares in favour of Respondent No. 2/Mr. Vishal Gupta. The cumulative effect of the said restructuring was to strip Respondent No. 1/VCare Technologies Private Limited of its principal assets and vest effective control over the Group's intellectual property and business in an entity under the control of Respondent No. 2, to the detriment of the Appellants and the Company itself.

7. Simultaneously, Respondent No. 2/Mr. Vishal Gupta sought to convert his alleged unsecured "promoter debt" of purportedly Rs. 4 crores into equity of IOD and thereafter had undertake a rights issue at a valuation approximately 90% below the earlier seed valuation, thereby substantially increasing his own shareholding in IOD even without infusing any fresh capital. The said acts are in gross violation of Section 62 of the Companies Act, 2013 and other rules and regulations.

8. On 23.08.2019, Respondent No. 2/Mr. Vishal Gupta and Respondent No. 3/Mrs. Bhagwati Devi , acting as the Board of Directors of Respondent No. 1/VCare Technologies Private Limited, approved a Business Transfer Agreement of Diro Inc. authorising it to transfer its business, assets, subsidiary and liabilities to the newly incorporated Internet Original Documents Inc. ("IOD") in exchange for shares in IOD, and further approved

the conversion of the Company's outstanding loans into equity of IOD by way of preferential allotment. The Appellants were informed of the said restructuring only on 27.09.2019 through an e-mail enclosing the notice convening the Extraordinary General Meeting ("EOGM") scheduled for 21.10.2019 for obtaining shareholders' approval.



9. The actions of Respondent No. 2/Mr. Vishal Gupta and Respondent No. 3/Mrs. Bhagwati Devi constituted a continuous course of oppressive and prejudicial conduct whereby Respondent No. 2 and 3 abused their position as the controlling directors to implement a restructuring, that lacked transparency, violated statutory and contractual safeguards, unfairly prejudiced the Appellants as minority shareholders, and was detrimental to the interests of Respondent No. 1 Company. The impugned restructuring was fundamentally unfair, commercially unjustifiable and lacking in its bona

fides. It was not intended to be in the interests of Respondent No. 1/VCare Technologies Private Limited or its stakeholders, but was designed solely to abandon the existing investors and creditors of Respondent No. 1, while simultaneously divesting the Company of its most valuable assets and intellectual property to facilitate Respondent No. 2/Mr. Vishal Gupta's private venture through a newly incorporated entity (IOD) under his effective control. The restructuring thus conferred disproportionate benefits upon Respondent No. 2/Mr. Vishal Gupta at the expense of Respondent No. 1/VCare Technologies Private Limited and its minority shareholders, constituting a clear act of oppression and mismanagement.

10. Immediately thereafter, the Appellants sent a legal notice seeking information and clarifications and requested not to hold the EOGM scheduled for 21.10.2019. As no information and clarifications were received, the Appellants approached the Ld. NCLT by filing the subject petition under Section 241 and 242 of the Companies Act, 2013.

11. The Appellants challenged the proposed restructuring before the Ld. NCLT on the ground that it constituted a calculated scheme of oppression and mismanagement intended to strip Respondent No. 1 Company of its most valuable assets, dilute the Appellants' proprietary rights, and consolidate control in Respondent No. 2. The Appellants specifically pleaded, inter alia, that:

i. valuable intellectual property and business assets were sought to be transferred from Diro Inc. and Diro Labs (UK) to IOD, thereby eroding the substratum of Respondent No. 1;

ii. the entire restructuring constituted a continuing course of oppressive conduct prejudicial both to the Appellants and to the Company itself; and

iii. the alleged promoter debt of purportedly Rs. 4 crore was contrary to the Company's audited financial statements;

12. While the petition was pending listing, the Respondents proceeded to hold the EOGM and the said EOGM was conducted in violation of the provisions of Companies Act.

13. Upon consideration of the Company Petition, the Ld. NCLT, was satisfied that a prima facie case and the balance of convenience existed in favour of the Appellants. The Ld. NCLT by an ad interim order dated 22.10.2019, directed maintenance of status quo in respect of the shareholding, assets and liabilities of Respondent No. 1 Company and its subsidiaries. The said interim protection continued throughout the pendency of the proceedings.

14. However, during the pendency of the subject petition and subsistence of the status quo order the Respondent No. 2 persistently engaged in continuous acts of oppression and mismanagement and blatant illegality.

15. However, by the Impugned Order dated 09.07.2026, the Ld. NCLT dismissed the Company Petition by holding that the Appellants had failed to establish oppression and mismanagement, while simultaneously allowing I.A. No. 78/2025 filed by the Respondents, in violation of principles of natural justice. The Ld. NCLT has passed the Impugned Order in a perfunctory manner and without application of mind. The Ld. NCLT has failed to adjudicate on the contentions put forth by the Appellants, and has also failed to return any findings on the acts of oppression and mismanagement. Further, I.A. No. 78/2025 has been allowed by the Ld. NCLT without even issuing notice on the same to the Appellants, expressly in breach of the principle of natural justice, in essence, audi alteram partem. The Ld. NCLT has failed to adjudicate and return any specific findings on the various acts of oppression and mismanagement put forth by the Appellants including the legality of the discounted allotment of shares, conversion of disputed debt of Respondent No. 2, transfer of valuable intellectual property and the continuing acts of oppression pleaded by the Appellants. The Impugned Order is therefore arbitrary, perverse and unsustainable in law, warranting interference by this Hon'ble Tribunal.

16. Thus, it apparently reflects that the Impugned Order has been passed in a mechanical manner and is arbitrary and liable to be set aside.

17. The Appellant brings to our notice that the Company Petition was e-filed on 19.10.2019 and was heard by the Ld. NCLT on 22.10.2019 (after conclusion of EGM) and on the said date, Ld. NCLT passed an interim order

in the following terms *"We direct the status quo to be maintained with respect to the shareholding, assets and liabilities of the respondent No. 1 Company and subsidiary /wholly owned companies of Respondent No. 1."* The Company Petition remained pending for about 7 years - and during this period parties filed various applications. R1 filed the application bearing IA 78/ 2025 ["IA 78/2025"] for dismissal of the Company Petition and for initiation of perjury action against the Appellants and R5. By the Impugned Judgment, the Ld. NCLT has dismissed the Company Petition and allowed IA 78/ 2025.

18. It is the contended by the Appellant that the reasoning of the NCLT is based on two findings:

i) Firstly, the Appellants have failed to establish any act of oppression or mismanagement under Sections 241-242 of the 2013 Act; and

ii) Secondly the Appellants misrepresented facts and did not approach the Ld. NCLT with clean hands, disentitling them to equitable relief.

19. NCLT in its order states that the Appellants misrepresented the existence of an oral agreement in order to defer the EGM to secure the Stay Order. Furthermore, the NCLT also comes to a finding that the Appellants relied on dissent notes that misrepresented the actual proceedings at the EGM. The appellant claims that these findings in the Impugned Judgment are perverse, contrary to the record, and unsustainable in law.

20. The Appellant brings to our notice that the oppression and mismanagement is unambiguously established in the case as explained

herein. The Company's ownership structure (fully-diluted, i.e., assuming conversion of SIHL/R4's preference shares) was as follows: A1 (7.93%), A2 (3.35%), R2 (58.39%), R4 (14.80%) other shareholders (around 15). The assets (including IP/ technology) of the Company were held primarily in Diro Inc. USA ["Diro US"] a wholly-owned subsidiary of the Company and in Diro Labs UK Ltd. ["Diro UK"], a wholly owned subsidiary of Diro US. Diro US and Diro UK effectively held the entire business of the Company including all its tech products and related IP. The assets of Diro US and Diro UK represented, in effect, the entire value of the Company. The Company owed debts to some shareholders/ related parties/ third parties. Additionally, 'pre-ICO' investors's claims of ~600,000 USD were reflected as debt of Diro US.

21. The Appellant also brings to our notice that IOD was newly incorporated as a wholly owned subsidiary of the Company on 07.08.2019. At incorporation and prior to the re-structuring, to the Appellant's knowledge, it did not own any assets.

22. The Appellant explains in detail as to how the restructuring, which was proposed by R2 and which is the subject matter of this appeal, was discriminatory, self-serving, and oppressive in nature and thus attracted Sections 241-242 of the Companies Act.

23. As the first step the Respondent No.1 proposed the transfer of all assets and liabilities from Diro US to IOD and for this purpose it proposed an agenda item no 1 in the EGM notice, which was as follows:

"RESOLVED THAT [...] approval and consent of the Members of the Company be and is hereby accorded to the Board of Directors of the Company, to ratify the transfer of all assets and liabilities of DIRO Inc, (USA), a wholly owned subsidiary of the Company to Internet Originals Inc. (USA), a wholly owned subsidiary of the Company. [...]"

24. It is the claim of the Appellant, that the consideration for which all assets are being transferred is not specifically disclosed in the EGM Notice and rather, this is known to the Appellants only. Appellant also claims that in exchange for transferring all its assets and liabilities to IOD, Diro US gains no money, no value, no sale price. Rather, it is given 14.46% of IOD's shares. The asset transfer had no consideration and was effectively an act to dispossess the Company of its own assets. This is an uncommercial and illogical transaction that has been carried where Diro US is giving away all its assets for 14% of its own assets. There is no commercial explanation or objective valuation to justify this circular transaction. The Appellant brings to our notice that the only answer is that the transfer was from "one wholly-owned subsidiary to another", therefore the Company did not lose any assets. This explanation is claimed by the appellant to be incorrect in view of the fact that the next steps of the restructuring reduced the Company's ownership of IOD from 100% to 30%. In fact, the appellant claims that the asset transfer was a pre-cursor to R2's scheme to usurp the Company's entire assets. The assets of the Company were being transferred to a new subsidiary (IOD) so that R2 could unilaterally control the new entity, without any contractual restrictions or competing shareholding rights attached to the older entities.

And the appellant brings to our notice that R2 candidly admits to this in the EGM Transcript.

25. The Appellant also brings to our notice that the promoter, through another item in the EGM notice, was proposing to settle the company's alleged debt to R2 through the sale of the company's stake in IOD. For this purpose, it had proposed the following agenda item:

> "RESOLVED THAT […] approval and consent of the Members of the Company be and is hereby accorded to the Board of Directors of the Company, <u>to sell or transfer or otherwise dispose of stake in Intenet Originals Inc to settle existing debts that includes Mr. Vishal Gupta, a Director & Promoter of the Company against the loan amount outstanding in the books of accounts of the Company of Rs. 4 crore at cost [i.e. 39 cents a share] (including the receipt of the consideration thereof) and in such manner as may be decided by the Board</u> […]"

26. The Appellant claims that, at the outset, the R2's claim of debt of ₹ 4 crores is dubious and unsupported by documents and represents a highly inflated and illegal claim. And for this purpose, it relies on a message to Mr. Kunal Bajaj on 27.05.2019 (i.e., 4 months prior to the EGM Notice), in which R2 claims his debt in the Company is only INR 2 crore. [WhatsApp Chat, Vol. IV, Pg. 643, Appeal]. Furthermore, Appellant contends that the EGM Notice and the supporting Explanatory Statement [EGM Notice, Pgs. 99-100 and 102-103, CC] provide no calculation/ break-up of the alleged debt. The Restructure PPT contains a break-up for INR 4.38 crore which includes: (a) loan provided by R5 to the Company; and (b) R2's purported unpaid salaries. The Appellant also brings to our notice, that when objections are raised in the

Company Petition, a new belated calculation was provided by R2 by way of purported certificate from a chartered accountant. This purported certificate states R2's claim to be INR 4.2 crore, but shows debt due to R2 (from the Company and Diro US) as only INR 2.67 crore. Other sums pertain to dues to certain companies and third parties (including R5 – INR 40 lakh). Due to scrutiny about inflation of his claims, the CA certificate no longer included reference to purported unpaid salaries. Thus, it is the claim of the appellant that prima facie R2 has hugely inflated his purported loans to the Company with a view to convert these loans into shares of IOD. Further, the very existence of these loans and the extent to which they were genuine is unverifiable.

27. Appellant also claims that the Respondent, through such restructuring, unduly gains an advantage over other shareholders. There is fundamental disparity in how the restructure treats other shareholders of the Company versus how it treats R2. Other shareholders will see their (indirect) shareholding in IOD be reduced to around $1/5^{th}$ their original shareholding: A1 (from 7.93% to 2.4%) and A2 (from 3.35% to 1.0%). On the other hand, by converting his purported debt to equity at fictitious and discounted valuations, R2 alone will see a net increase in his shareholding (from 58.39% to 72%).

28. The Appellant also brings to our notice that by such restructuring the respondent 2 also gains an advantage over other creditors. In the loan-to-equity conversions proposed by R2, there is gross difference in valuation in

favour of R2 over other creditors of the Company's group. This is evident from the Restructure PPT. Against about USD 673,100 (INR 4.38 crore) of alleged promoter debt, R2 proposes to issue to himself 54% equity in IOD. And against similar debt amount about USD 600,000 (INR 4.2 crore – assuming dollar conversion rate @INR 70, at the time of transaction), the pre-ICO investors are offered measly 5.3% equity in IOD.

29. It is the claim of the appellant that the R2 has devised a complicated structure to set off his claimed (and inflated) structure to give himself a 10x advantage over other creditors of the Company's group. The valuation at which these shares are offered to R2 – i.e., @39 cents a share is also purely a figment of R2's imagination and is not based on any objective or formal valuation. The Appellant also claims that conversion of debt-to-equity at such a valuation so as to give himself around 50% additional shares in IOD also shows that R2's intention was never to use the restructuring to raise funds. The claim of "financial exigency" as stated in the EGM Notice appears to be a smokescreen to issue further shares to himself while diluting other shareholders.

30. With regard to the rights issue at IOD, the appellant claims that this issue is not specifically referred to in the EGM notice. Rather it was contained in the following terms in the Rights Issue Email sent by R2:

> "We are floating a limited offer to buy shares to all stakeholders and option holders (at a 90% discount of earlier seed valuation) in the new company - Internet Original Documents Inc, USA at 39 cents - as part of the restructuring. All existing stake holders including unsettled claims holders)

have an additional option buy shares up to the proportion of their interest in the previous business of phonebooks. […]

If you choose not to invest - then we feel the restructuring should more than compensate the dilution by making the new project fundable and successful and make it possible to settle claims in future. […]."

31. It is the contention of the Appellant that the purported rights issue in IOD offered by R2 perpetuates the disparity in treatment of other shareholders as opposed to R2. It effectively demands/ extorts the existing shareholders of the Company to invest further funds in the Company barely to retain their minority holding. On the other hand, without investing any further sums, R2 would receive additional shareholding of IOD by the loan-conversion referred to herein earlier. The appellant contends that the purported 'restructuring' undertaken by the Company at the instance of R2 was to dispossess the Company of its own assets (technology and IP) by reducing the Company from a 100% owner to a 29.4% owner of its own assets and consequently dilute the existing shareholders (including the Appellants) and creditors of the Company to approximately 1/5th of their present entitlement; and to amplify R2's own shareholding from 58% to approximately 72% by converting inflated loans to equity at steeply discounted valuations.

32. Appellant claims that R2 a majority shareholder, who is effectively the sole director (the other director was his mother), chief-executive officer and the controlling agent of all actions of the Company and its subsidiaries has evidently abused this position in violation of his fiduciary

duties by attempting to usurp the assets and shares of the Company under the garb of 'restructuring'.

33. The Appellant the contends that the well-recognised standards of oppression and mismanagement are unambiguously met in this case. In considering petitions under Sections 241-242, Companies Act 2013, the Ld. NCLT is entitled to and required to critically review the proposed corporate actions to assess their true purpose. On closer scrutiny the entire purpose of the purported "restructuring" unravels as a coup by R2 to usurp assets of the Company and marginalise all other stakeholders.

34. In this respect, the Appellant places reliance on the following precedent:

- **VS Krishnan v. Westfort Hi-Tech Hospital Ltd., MANU/SC/7193/2008/ Judgment dt. 21.02.2008 in Civil Appeal No. 1473 of 2008 @Para 10.**
- **Dale & Carrington Investment Pvt. Ltd. v. P.K. Prathapan, (2005) 1 SCC 212 @Paras 11(d), 15, 20, 29.**
- **Pearson Education Inc. v. Prentical Hall P. India Ltd., 2005 SCC OnLine Del 945 @Pgs. 9, 10, 12.**

35. Learned NCLT has held that the actions impugned are *"commercial and managerial decisions taken by the Board in the interest of the Company"* undertaken *"to address the financial exigencies of the Company"*. It is the claim of the appellant that Ld. NCLT has merely reproduced the bare submissions of the R1-R3 without any enquiry into, or examination of, the evidence and submissions placed on record by the Appellants and these are

generic, overbroad and unexplained conclusions which show that the Ld. NCLT has erroneously failed to apply its mind to the record placed before it and render a reasoned decision. On this ground alone, the Impugned Judgment deserves to be set aside, reference is made to **Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan, 2010 INSC 582 @Para 51.**

36. The Appellants also bring to our notice that they did not misrepresent the facts before the learned NCLT. Ld. NCLT has determined that there were two incidents of misrepresentation by the Appellants (vide submissions made by their Ld. Counsel) in the first hearing in the Company Petition when the Stay Order [Stay Order, Pgs. 32-34, CC] was passed. Ld. NCLT held that the Appellants' counsel, at the hearing of 22.10.2019, incorrectly alleged an oral agreement to defer the EGM scheduled for 21.10.2019 [Para 24]. Appellant brings to our notice the following sequence of events/ prior contemporaneous email trail which evidences that there was an understanding to defer the EGM and which R2 rejected only at the last hour making it impossible for the Appellants to approach the Ld. NCLT before the EGM and the appellant claims that this cannot in any manner amount to misrepresentation before the Ld. NCLT. The email trail/sequence of events relied upon by the Appellant is as follows:

18.10.2019	A1 issues a legal notice with objections to the proposed EGM.
18.10.2019 (2.21pm)	R2 replies by email inter alia proposing arbitration

18.10.2019 (3.07pm)	A1 welcomes the proposal to arbitrate the disputes and asks if the EGM will be suitably deferred
18.10.2019 (3.28pm)	R2 states that the proposal can only be "stalled for a few days", that parties can "meet and resolve in next few days". Note, this shows R2's inclination to defer EGM for at least a few days for amicable resolution/ arbitration.
19.10.2019	Company Petition is e-filed before Ld. NCLT.
20.10.2019	A meeting takes place between the A1, A2 and R2. There is a disagreement on constitution of the arbitral tribunal.
21.10.2019 (1.42am)	R2 considers the disagreement on constitution of tribunal as a rejection of proposal and intimates the intention to proceed with the EGM Note, this email is issued past mid-night. It was impossible to apply before Ld. NCLT to prevent the EGM from happening.
21.10.2019 (1.38pm)	A1 clarifies his position on arbitration, raises questions for clarifications, seeks time for providing a counterproposal and seeks deferral of EGM
21.10.2019	Since R2 revoked the agreement to defer the EGM at the last moment, A1 and A2 anyway attended the EGM and registered their protest (which wasn't duly recorded).

37. Appellant also brings to our notice that in any event, the Stay Order dated 22.10.2019 itself records that the submission regarding deferral of the EGM was made only to explain why interim prayers (a)-(b) (to stay the EGM) had become infructuous, which is a matter of fact. The stay was

granted on the basis of the objections to the EGM, not the alleged deferral agreement, and even if untrue, this was not a material misrepresentation.

38. Appellant also contends that there was no misrepresentation of proceedings in the EGM, which has been noted by the learned NCLT in the impugned order. Ld. NCLT held that the Appellants' reliance on dissent notes: (a) issued by the Appellants; and (b) issued by R5 to claim that objections were not recorded, no minutes were prepared, and no Company Secretary was present was misleading in view of the EGM Minutes and EGM Transcript. The appellant brings to our notice that the purported EGM Minutes were produced for the first time only in Respondent No. 2's reply of 03.01.2020, i.e., 45 days after the EGM. They do not bear any signature or date, and were never contemporaneously shared with or affirmed by any other participant. Even on their own terms, the purported EGM Minutes confirm that the objections of Appellants were not recorded and dissent notes were not taken on record, and that no Company Secretary was present at the meeting. For this purpose, the appellant has relied on the EGM transcript, which clearly records such discussions. The appellant has relied on the following portions of the EGM transcript:

- Explicitly refusing to record objections in the minutes [Lines 1402-1405; Line 1418-1419; Line 1466-1474]

- Undertaking to receive and record dissent notes over WhatsApp which were then omitted from the signed minutes owing to an artificial deadline [Line 1055-1072; Lines 1466-1474, r/w. Minutes, Pg. 201], and

- Accepted that no Company Secretary was present and that R2 himself would decide everything [Line 411-418].

39. On the basis of above record the appellant claims that the very record of the EGM produced by R2 in relation to the proceeding at the EGM, viz. the EGM Minutes and EGM Transcript [Transcript, Pgs. 146-199] reaffirm and ratify that the Appellant's objections in relation to the conduct of the EGM were accurate.

40. The Appellant claims that on the basis of these two perverse findings referred herein earlier, the Ld. NCLT erroneously concluded that the Appellants had not approached with “clean hands” and were disentitled to equitable relief under Sections 241-242 of the 2013 Act. Thus, it is the claim of the appellant that these findings are contrary to the record and deserve to be set aside.

41. The Appellant also brings to our notice that IA 78/2025 has been incorrectly allowed by the Learned NCLT in the impugned judgment. It is recorded in the Impugned Judgment [Para 6], that IA 78 alleged misrepresentation by the Appellants and it requests final prayers for: (a) initiation of alleged perjury proceedings inter alia against the Appellants; and (b) for dismissal of the Company Petition. It is the claim of the appellant that while in one line the Impugned Judgment holds that IA 78 “stands allowed” [Para 31] there is no reference, or consideration, or direction that perjury

proceedings are to be initiated against the Appellants. As such the Impugned Judgment cannot be understood to initiate any perjury proceedings against the Appellants. The Impugned Judgment contains not a single line of reasoning justifying the decision to allow the application [Para 31]. Of the three alleged "false statements" recorded as being the subject matter of IA 78 [Para 6(c)], only two are dealt with in the Impugned Judgment (and, as shown above, perversely), and the third is not referred to at all.

42. Appellant further contends that even assuming the statements to be misstatements, the threshold for initiating contempt/perjury proceedings is not met insofar as: (i) no specific statement, or evidence is provided as false evidence on other; and (ii) no preliminary inquiry as mandated by law under S.340, CrPC has been conducted by the Ld. NCLT to justify initiation of any penal/ perjury proceedings against the Appellants. Reference in this respect is made to **Prabhakar v. Sou Jaipurkar, 2026 INSC 724** @Para 12.

43. Appellant also brings to our notice that they have an apprehension that Respondents Nos. 1 to 3 will create an irreversible situation. And for that purpose they bring to our notice the situation prevailing during the stay period of about 7 years. By the Stay Order, the Ld. NCLT had deemed the case fit to direct that "status quo to be maintained with respect to the shareholding, assets and liabilities of the respondent No. 1 Company and subsidiary /wholly owned companies of Respondent No. 1." This Stay Order had been in effect for a period of about 7 years until the Impugned Judgment came to be rendered and the Stay Order stood automatically vacated. During the

pendency of the Company Petition, the Respondent Nos. 1-3's position was that: "*No change has been made to the status quo of those liabilities and shares*". However, shockingly in its reply before this Appellate Tribunal, reply of Respondent Nos. 1-3's position is starkly different, inter alia it is stated: *"Transactions of which the Appellants complain are complete"*.

44. Thus, this position of the Respondent Nos. 1-3 shows that there is every risk that they shall attempt to create a fait accompli situation by which irreversible actions would be taken to permanently dispossess the assets, business, shares which are the subject matter of this proceeding. Accordingly, urgent interim order may be considered to be passed by this Hon'ble Tribunal in case of any remand order.

45. The Appellant requests that - for the above-noted reasons - to allow the present Appeal and set aside the Impugned Judgment. By way of consequential relief, the appellant requests to grant the appropriate final relief sought by the Appellant, and in particular, the Appellants seeks:

- Direction that the EGM Notice and the purported resolution passed in the EGM is illegal and void; that no actions in respect of the restructuring proposed in the EGM can be undertaken; and any actions that may have been undertaken in furtherance thereof will stand reversed.

- Direction to Respondent Nos. 1-3 to ensure that all assets, business, shares of the Respondent No. 1 company and its subsidiaries (including any subsequent or new business or assets within the Respondent No. 1 company's group) be restored to the status quo ante (i.e., prior to August 2019) under the direct and full ownership of the Respondent No. 1 Company.

46. The Appellant also requested that this Appellate Tribunal may be pleased to finally decide the case insofar as about 7 years of litigation has already transpired. If, however this appellate Tribunal sees fit to remand the Company Petition back to the Ld. NCLT for fresh consideration, this Hon'ble Tribunal may direct the Ld. NCLT to decide the case on remand expeditiously and in a time-bound manner; and until such final decision by the Ld. NCLT, the Respondent Nos. 1-3 be directed to preserve the status quo with respect to the shareholding, assets and liabilities of the Respondent No. 1 Company and subsidiary /wholly owned companies of Respondent No. 1.

Submissions of the Sumit Khurana, Respondent No 5

47. Sumit Khurana/ Respondent No 5/ R5 is a holder of one share and unsecured creditor to the Company to the tune of Rs 40 lakhs. By virtue of the impugned order dated 9 July 2026 ("Impugned Order"), IA 78/ 2025 was allowed wherein one of the prayers sought a finding of perjury. However, there is no finding to that effect in the Impugned Order. Further, the concerns of R5 regarding illegal recording of his debt as 'promoter debt' were entirely overlooked.

48. On 10 April 2017, R5 and the R2/Company entered into a Memorandum of Understanding ("MoU"), wherein R5 lent Rs 40 lakhs to the Company with R2 being the personal guarantor ("Loan"). On 27 September 2019, notice was received for EGM meeting with documents that showed R5's credit to the Company classified as 'promoter debt' and apparently subsumed

by R2 to gain greater shareholding in the new US company, Internet Original Documents ("IOD").

49. On 21 October 2019, an EGM was held at R2's residence from 4 – 6 pm, wherein: (a) R2 attempted to – and succeeded in forcing through, inexplicable plans that only inured to his benefit; (b) R2 did not record the strong dissent of R5; (c) The meeting was conducted in a hostile manner with threats to R5 that if he did not go along with the plan then he may not receive his money back; (d) That dissent notes could be sent after the meeting ; and (e) That concerns of every person would be noted (supra). At 8:17 pm, merely 2 hours after the meeting had ended, a detailed dissent note ("Dissent Note") was issued by R5 to all stakeholders of the Company. On 3 January 2020, a purported minutes of the EGM was filed by R2 in his reply before the Hon'ble NCLT. The minutes recorded that there was no dissent received by 6:00 pm – an arbitrary timeline conveniently set to provide a post-facto explanation.

50. On 12 February 2026, the Ld. Judicial Magistrate First Class (NI Act – 02), South East District, Saket Court in CC No 123/2020, found R2 guilty under Section 138 of the NI Act, 1881. Additionally, the Ld. Judge made several findings against R2. An excerpt is reproduced below:

> Para 76: "…This Court finds considerable force in the complainant's submission that the minutes of the meeting and the transcripts expose the mala fide conduct of Accused No. 2, who was fully conscious of the outstanding debt, acknowledged the existence of the cheques and personal guarantee, yet failed to honour the repayment obligation…"

51. On 4 August 2026, an appeal was filed by the Company and R2 before the Addl. Sessions Judge -02, South East District, Saket Court in Criminal Appeal No 119/2026 was dismissed. As of date, R1 and R2 is convicted under Section 138 of the NI Act, 1881.

52. IA 78/2025 was allowed in a wholesale manner consequently making R5 guilty of perjury with no evidence or finding. Para 6 of the Impugned Order records the perjury allegations levelled against R5 by R2. However, in para 31, without even identifying which statement made under oath/ on affidavit was being referred to, the Ld. NCLT was allowed IA 78/2025 wholesale and in an omnibus manner. Furthermore, the impugned order does not give any observations and directions regarding R5's unsecured debt shown as promoter debt. The Impugned Order does not address how R2 could have utilised R5's debt to obtain greater shareholding in IOD without R5's consent.

53. On the issue of perjury, the respondent 5 brings to our notice that there is no finding of perjury in the impugned order against R5. R5 brings to our notice that even if IA 78/2025 was allowed, it is incorrect as R5 is held guilty of sending an email that was: a) Not made before the Court; b) was not made under affidavit or oath; c) was not stated before the court; and d) there have been no trial or proceedings to establish to its hold its veracity.

54. R5 also brings to our notice that no notice was issued in IA 78/2025 and no written explanation was ever sought from R5. This is contrary to the principles of natural justice. R5 also contends that he could not have made any misrepresentations as he was not a party and was not even appearing in

court on 22 October 2019 when the purported perjury was committed. Furthermore, the respondent 5 brings to our notice that there are no specific findings or analyses as to what intentional falsehood was stated by R5 before the Ld. NCLT.

55. With respect to the loan by R5 to R1 company, it is brought to our notice that the R1 company had taken the loan from R5 with R2 as the personal guarantor. Interest was paid by R2 only until August 2019. However, no repayment of the Loan amount has been made to date. Furthermore, R2 illegally recorded R5's loan as 'promoter debt', included the amount in his debt and arrived at the figure of ₹ 4.38 cr. The mala-fides are evident when R2 was deliberately 'subsuming' R5's debt to the Company as his own.

Promoter debt	(in crores)	(in crores)		
• Sumit Khurana	0.40	needs to be paid back		
• Vishal post-infoedge	2.22			
• Vishal unpaid salarie	0.47	3.09	$474.6	70.5%
Vishal pre-infoedge		1.29	$198.5	29.5%
		4.38	$673.1	

Vishal debt convert	1,469	54.0%	B (refer Actuals)
Vishal Vesting	0	0.0%	C (refer Actuals)
Overall total	**2,718**	**100.0%**	A+B+C

56. Respondent No. 5 also contends that Dissent Note highlights crucial aspects of the EGM that the Hon'ble NCLT did not dwell on. Some of these aspects are:

a) The Loan was being included under 'promoter debt' with an attempt to convert the same to equity of IOD;

b) R2 being the personal guarantor;

c) R2, being unable to pay the Loan suggested to R5 to drive the Company into liquidation; and

d) The incorrectness of the EGM- absence of a CS, no record of minutes, no noting of dissent etc.

All the statements made in the Dissent Note are corroborated by the transcript shared by the R2.

57. Respondent No.5 also claims that going by the conduct of R2, it is evident that the fate of the Loan was already decided as far back as May 2019. The unilateral decision of R2 to categorize R5's debt as 'promoter debt' and subsuming R5's debt in his debt, R2 has surreptitiously attempted to get more equity in IOD-USA. The allegations of perjury by R2 are merely post – facto arguments. This is evident from the communication of 27 May 2019.

58. Respondent No.5 also brings to notice that unilateral and malafide decisions were taken by R2 at the peril of all other shareholders. R2 states that an option was given to R5 to either have the Loan repaid or to have it converted to equity. No such option was ever given – nor is any such conversion permissible without consent of R5 (which consent was never provided). In fact, all decision of R2 were enforced unilaterally – the issuance of EGM notice, the holding of the EGM and the EGM being given effect to.

59. Respondent No. 5 relies upon the following judicial precedents:

- The tests for determining perjury have not been satisfied as laid down by the Hon'ble Supreme Court in **James Kunjwal Vs State of Uttarakhand and Anr 2024: INSC:601).**

- A determination of whether the statements made were 'wrong' or 'false' has not been done by the Hon'ble NCLT, a mandate prescribed by the Hon'ble SC in **Prabhakar Yeshwant Masram and Ors Vs Sou Tula Namdeorao Jaipurkar and Ors 2026 INSC 724**.

- A purported act of perjury done before the production of a document or giving evidence in Court does not amount to the offence of 'perjury' as held by the Hon'ble SC in **Iqbal Singh Marwah and Ors Vs Meenakshi Marwah and Ors 2005 INSC 129**.

60. On the findings of perjury, the respondent No. 5 prays that there was no legal or factual basis for the finding on misrepresentation by R5 and prays that the said finding be set aside; and also prays to hold that the objections raised by R5 regarding improper conduct of the Company was accurate.

61. And on promoter debt it contends that as R5's submissions regarding his debt being shown as 'promoter debt' to unjustly enrich R2 were not analysed and thus it prays that this appellate tribunal hold the recording of R5's debt as 'promoter debt' to be entirely illegal.

<u>Submissions of the Respondents No. 1, 2 and 3</u>

62. The figure of ₹4 crores was correct and conservative and contends that the figure never represented a sum owed to Respondent No. 2 personally. It represents the aggregate indebtedness of the Company to Respondent No. 2 and his related parties, being those who funded it through its distress. The composition was itemised in the material circulated with the EOGM notice dated 27.09.2019, three weeks before the meeting, to every member including the Appellants:

Constituent	₹ crore
Sumit Khurana	0.40
Vishal Gupta (advances after investment)	2.22
Vishal Gupta (unpaid salary)	0.47
Vishal Gupta (advances before investment)	1.29
Total	**4.38**
***Includes 1cr induction in current financial year (2019-20)** *Salary at base level of 1.5 lacs without any interest since March 2017	

63. It is therefore incorrect that a bare figure was asserted without explanation. The Appellants had the information on composition of debt when they issued their legal notice of 18.10.2019 and when they attended the meeting on 21.10.2019, however they did not question it then. Since the quantum of debt was questioned for the first time in the Company Petition, the Answering Respondents placed on record the certificate of M/s Anil Kumar Bansal & Associates, Chartered Accountants, dated 21.02.2020, certifying the unsecured financial creditors on a consolidated basis **as at 30.09.2019**, being a date preceding the impugned meeting, and filed with the Application for vacation of stay, which indicated as follows:

Creditor	Amount (₹)	%
Vishal Gupta & Related Party	2,45,23,343	58
Shyam Garments Pvt Ltd (company owned by the family of Respondent No. 2)	1,07,39,665	25
Loan to Subsidiary (Vishal to Diro Inc)	21,79,310	5
Sumit Khurana	40,00,000	9
Nitin Agarwal	10,00,000	2
Total	**4,24,42,318**	**100**

64. The certificate separately records that the unpaid salary of Respondent No. 2, approximately ₹43,50,000 at ₹1,50,000 per month from March 2017, is excluded from that table and falls to be computed separately. Unsecured Operational Creditors of ₹51,07,616 are recorded as a distinct category. The aggregate attributable to Respondent No. 2 and his related parties is accordingly ₹2,45,23,343, ₹1,07,39,665 and ₹21,79,310, which aggregate to ₹3,74,42,318, and together with unpaid salary of ₹43,50,000, ₹4,17,92,318. The figure of ₹4 crore is therefore not inflated. It is rounded down. On the certified numbers the exposure stood at approximately ₹4.18 crore; the Company proceeded on ₹4 crore, approximately ₹18 lakh less. A promoter seeking an advantage does not understate his own claim. The figure of ₹4,14,42,318 in the Answering Respondents' earlier submissions is simply the certificate total less Mr. Nitin Agarwal's ₹10,00,000. The arithmetic is exact. There is no competing figure. The answering Respondent also contends that it is corroborated from the accounts signed by Appellant No. 1. Note 18 (Page 520 of the Appeal, Related Party Disclosures) of the audited financial statements for the financial year ended 31.03.2018, audited by M/s Tarun Kandhari & Co. LLP, records as at 31.03.2018: Vishal Gupta ₹4,73,293; Bhagwati Devi (mother) ₹80,14,011; Jai Shree (sister) ₹17,43,867; Raj Kumar Gupta (father) ₹14,71,132; Shyam Garments (Vishal Gupta's family company) ₹1,07,39,665. The same creditor categories, namely director, relatives and an entity controlled by the family, appear in the accounts of 2018 and in the independent certificate of 2020. That two documents, eighteen months apart and by different professionals, disclose the same structure of indebtedness is

consistent and corroborating. those statements were signed for and on behalf of the Board by Appellant No. 1 himself, that is Mr. Nikhil Rai, DIN 00127250, jointly with Respondent No. 2 on 28.05.2018 (see page 523 of Appeal), days before his resignation took effect. The Appellant who now says the related party borrowings are unsubstantiated personally authenticated the accounts recording them, and is therefore plainly misrepresenting the facts before the Hon'ble tribunal. The accounts are relied upon as corroborating the existence, structure and categories of the borrowings, not as an arithmetical match: they are standalone and as at 31.03.2018, whereas the certificate is consolidated and as at 30.09.2019. The increase reflects continued funding of a company by Vishal Gupta and related parties, which, as Part IV shows, had no other source of funds. The manner of the misrepresentation of financials numbers by Appellants is itself a repetition of the fraudulent conduct found before NCLT. The Appellants engage neither with the certificate, nor with the composition circulated with the notice, nor with the accounts they signed. They select individual line items from the financial statements, read them in isolation and divorced from the remaining entries on the same page, and present the apparent discrepancy to mislead the Hon'ble Tribunal. That is not analysis of the accounts but misrepresentation of them, and reflects lack of candour recorded at paragraphs 23 to 26 and 30 of the Impugned Order.

65. As regards the constituents, Smt. Bhagwati Devi is Respondent No. 3, a Director in her own right and a signatory to the Board Resolution dated 23.08.2019; her advance was dealt with by a Board of which she was a

member and thereafter placed before the general body. Shyam Garments Pvt. Ltd. is a company owned by the family of Respondent No. 2; it is acknowledged to be a distinct juristic person, but the internal attribution of a genuine debt within a single promoter family, every constituent being an admitted creditor disclosed in accounts signed by Appellant No. 1 and independently certified, does not convert a bona fide restructuring of real liabilities into oppression. The question is not the precise internal allocation of a family group's claims but whether the Company genuinely owed the money and whether settlement was offered on fair and equal terms; both are answered affirmatively. The unpaid salary arises under the Employment Agreement and was separately identified both in the certificate and in the circulated sheet.

66. The Appellants did not question the quantum when they could. On 27.09.2019 the itemized composition was circulated. On 18.10.2019 Appellant No. 1 issued a legal notice objecting at paragraph 7 to the concept of conversion as arbitrary and discriminatory, yet without questioning the figure, seeking a breakdown or challenging the computation. At the EOGM of 21.10.2019, on the transcript placed on record by the Appellants on the transcript placed on record on 21.02.2020 as Annexure D to the Application for Vacation of Stay, neither Appellant challenged the arithmetic or the composition of the debt; the only contemporaneous challenges, if any, were to valuation and came from Respondent No. 5, who is not an Appellant. The objection on quantum of debt appears first in the Company Petition, and was answered promptly by the CA certificate of 21.02.2020.

67. It is not submitted that a shareholder is barred from raising in a petition an objection not taken at a general meeting. It is submitted that where the composition was disclosed three weeks in advance, a legal notice was issued objecting to other matters (but not the quantum), the meeting was attended and nothing said, and the point is raised first in litigation, that conduct bears upon the weight and bona fides of the grievance and upon the equitable discretion invoked: **Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd., (1981) 3 SCC 333**.

68. Answering, Respondent also contends that the settlement was not offered to respondent No. 2 alone. The premise that the restructuring was devised for the exclusive benefit of Respondent No. 2 is contradicted by the document devising it. The Board Resolution dated 23.08.2019, annexed by the Appellants at Pages 457 to 458, Volume 3, Annexure A-2, records:

> "… consent of the board be and is hereby accorded to IOD-USA to convert balance VCARE loan outstanding in the books of IOD-USA to settle any existing debts or cash infusion in the holding company by way of preferential allotment. The same offer shall be also made available to all existing stockholders, option holders and token holders, to the extent of their interest in the new company at the same price and the allotments be concluded in an EGM."

69. Item No. 2 of the EOGM notice was framed in the same inclusive terms, namely to dispose of the stake in Internet Original Documents Inc. "to settle existing debts that includes Mr. Vishal Gupta". The 'Summary of Investment' sheet circulated with the notice, and the certificate, each identify the other creditors by name, including Respondent No. 5 (₹40,00,000) and Mr. Nitin

Agarwal (₹10,00,000). The scheme settled the Company's unsecured indebtedness as a class, not a transfer to one man.

70. Separately, on 30.09.2019 Internet Original Documents Inc. made a proportionate rights offer to all shareholders including the Appellants, at the same price, as recorded at paragraph 3(r) of the Impugned Order and not in dispute. The Appellants did not subscribe. Equality was thus provided at two levels: among creditors by the Board Resolution, and among shareholders by the rights offer. Both preceded the meeting; both were on identical terms. The offer followed the principle of Section 62(1)(a) of Companies Act,2013, under which further shares are offered first to existing holders in proportion, an offer not taken up is deemed declined and the balance is disposed of by the Board, even though the section itself, for the reasons in Part X, does not govern an issue of shares by a Delaware corporation (foreign entity).

71. The same offer was extended even to the token contributors of Diro Foundation Pte. Ltd., Singapore, a company in which Respondent No. 1 holds no equity, to which nothing ever passed from Respondent No. 1, and whose contributors had no claim against the Company. A scheme that settles a class with no claim, at the Company's earlier valuation, is not a scheme devised to prefer Respondent No. 2; and a grievance on behalf of persons who are not members is outside the purview of Sections 241 and 242.

72. The answering Respondents also claim that the restructuring was approved by those with the most to lose, particularly respondent No. 4, Startup Investments (Holding) Limited, which is the investment vehicle

associated with Info Edge (India) Limited, the listed company which owns Naukri.com, 99acres.com and Jeevansathi.com. It is a sophisticated institutional investor. It held 14.80% on a fully-diluted basis and, in addition, the entirety of the Company's 0.01% Optionally Convertible Cumulative Redeemable Preference Shares of ₹4,00,00,000 in face value (Note 9(f) of the audited accounts). It therefore had the largest single financial exposure of any outside party. It approved the restructuring. Its written communication reads: “Hi Vishal, restructuring of the cap table is fine by us. Please go ahead, good luck.” This approval was produced and read out at the EOGM, as the transcript at lines 495 to 508 records, and is on record as Annexure CA/13 to the Reply. The Board Resolution of 23.08.2019 had itself made the restructuring subject to that approval, which is inconsistent with any suggestion that the requisite approvals were not taken. Where the largest creditors and the largest outside investor both supported the restructuring, and the only dissent came from holders of 11.28% of the shares (Appellant No. 1's 7.93% holding being itself the subject of a pending arbitration) who declined to participate on terms offered equally to them, the transaction bears none of the hallmarks of oppression.

73. Answering respondents also claim that there was no change of control. Respondent No. 2 already held 37,857 of 49,009 shares, that is 77.2% in Respondent no. 1 company, as the Appellants themselves plead (Memorandum, para 7.5), and with Respondent No. 3 constituted the Board. The conversion enlarged the holding of a person already in control; it did not convert a minority into a majority, which is the vice in Dale & Carrington. The

object of restructuring was to render a company free of debt and able to raise funds, as the Explanatory Statement, the email of 30.09.2019 and the Minutes each record.

74. The Answering Respondent Nos. 1, 2, and 3 claim that the company was on the verge of liquidation and the valuation followed from its condition. The company was not a going concern and the Explanatory Statement records that Diro Inc. "has evaluated the feasibility of continuing the operations under the present circumstances as it continues to be under severe pressure to sustain its operations", the transfer being to "realize the existing value on a going-concern basis". The wider record is to the same effect: the "Phonebooks" project had failed and its intellectual property had expired without renewal; neither Appellant No. 1 nor Respondent No. 2 had drawn salary since January 2017; the proposed Initial Coin Offering had collapsed; the Techstars opportunity was lost; and the Company had no source of funds beyond continued advances from Respondent No. 2 and his related parties. In the transcript relied upon by Respondent No. 5, the Chairman is recorded as stating that continued management was "just not possible", that "if People vote to wind down, we will wind down", that "We will most likely file for liquidation", and that the situation was "very grim" (lines 27 to 34).

75. First, the valuation was the consequence of that condition, not a device. The price at which equity in a distressed entity with no revenue can be offered is a function of its prospects. Respondent no. 1 was then a company unable to pay salaries, whose product had failed and whose funding had collapsed,

thus could not command the valuation of an earlier and more optimistic round. The comparison with the 2016 seed valuation compares a company at the point of investment with the same company after the failure of the venture that investment funded. Secondly, a company in that condition is entitled to raise funds. How to recapitalise a failing business is a commercial judgment; mere dissatisfaction with such a decision is not oppression, and the Tribunal does not substitute its own commercial view for the Board's: Needle Industries, (1981) 3 SCC 333; Shanti Prasad Jain v. Kalinga Tubes Ltd., AIR 1965 SC 1535.

76. Had the Company been wound up, which on the contemporaneous record was the realistic alternative, the unsecured financial creditors would have ranked ahead of the equity holders. Respondent No. 2 and his related parties, holding some ₹4 crore of the certified unsecured financial debt, would have been paid in priority; the Appellants, as shareholders, would have ranked last and in all probability received nothing.

77. The restructuring did the opposite. It required the unsecured creditors to surrender a monetary claim ranking in priority and accept equity in a speculative venture, that is to subordinate themselves to the risk the shareholders already bore. A creditor who converts secure debt into insecure equity assumes risk; he does not extract an advantage. A scheme under which the largest creditors surrendered priority, every creditor was offered the same conversion and every shareholder proportionate participation, is the antithesis of a scheme to oppress. Creditors holding over 90% in value of the

certified debt supported the resolutions, including Mr. Nitin Agarwal, whose own loan was not being converted (Minutes, APB Vol. IV, p. 652); the only creditor who withheld support was Respondent No. 5, whose loan was marked “needs to be paid back”.

78. The answering Respondents further contend that a shareholder who declines to participates cannot complain of dilution. The Appellants were offered participation proportionate to their holding, at the same price as everyone else, on 30.09.2019. They declined. They now complain that their shareholding was diluted.

79. Nor did they vote against it. Appellant No. 1 asked whether he could abstain and was told he could; members were asked to record any dissent with reasons on WhatsApp during the meeting, so that a contemporaneous record would exist; none was received by 6:00 p.m., and the Minutes record all three as having abstained, their written note of abstaining being filed as evidence along with IA 78 of 2025. A shareholder who declines to vote against a resolution cannot say it was carried over his opposition.

80. The answering Respondent further contends that dilution avoidable by accepting an offer made on identical terms is not dilution imposed but the consequence of the shareholder's own election. In **Needle Industries (supra)** a further issue made bona fide in the company's interests was held not to be oppression where the complaining shareholder had the opportunity to subscribe and did not. A minority shareholder is entitled to decline to fund a failing company; he cannot, however, so decline, allow others to bear the risk

of rescuing it, and then complain that those who did so hold more than he does.

81. It is further contended that **Dale & Carrington Investment (P) Ltd. v. P.K. Prathapan, (2005) 1 SCC 212**, upon which the Appellants rely, is distinguishable precisely here: there a director allotted shares in the company itself to himself, without notice and without any offer to the other shareholder, to convert a minority into a majority. Here the allotment was by a subsidiary, on notice, under a Special Resolution, on an offer extended to every shareholder at the same price.

82. The answering Respondents further claim that there was a fraud upon the Tribunal and therefore the Appellants are disentitled to relief. The Appellants made false and misleading statements and had not approached the Tribunal with candour. Appellant No. 1's email of 18.10.2019 at 3:07 p.m. asking "Are you willing to defer the EGM in order to go ahead with this?", which was an enquiry and not a concluded agreement; Respondent No. 2's reply the same day at 3:28 p.m., "Can't postpone by 21 days again", which was an express refusal; and his email of 21.10.2019 recording that "I had offered binding arbitration ... but the offer was rejected by you". The representation recorded in the ex parte order, namely that Respondent No. 2 had orally agreed to defer, is falsified by the Appellants' own exhibits.

83. The consequences of the interim order were neither formal nor theoretical. The order froze the shareholding, assets and liabilities of Respondent No. 1 and of its subsidiaries for nearly seven years. The

restructuring designed to clear the Company's debt and make it fundable could not be implemented. No capital could be raised: no investor subscribes into an entity frozen by order of a Tribunal and embroiled in litigation. The Techstars opportunity was lost. Salaries remained unpaid from January 2017. The Company's only source of funds remained from further advances from Respondent No. 2 and his related parties, being the very creditors whose conversion had been frozen. The position was so acute that the Answering Respondents twice applied for urgent hearing, in C.A. No. 103/ND/2020 and C.A. No. 363/2020, on the express ground that the Company could not function. A company already at the point of liquidation was thus immobilised for seven years upon an order procured based on fraud and misrepresentation which the Appellants' own documents prove.

84. An order obtained by fraud is a nullity. **A.V. Papayya Sastry v. Government of A.P., (2007) 4 SCC 221**: “Once it is established that the order was obtained by a successful party by practising or playing fraud, it is vitiated … It is non-existent and non-est and cannot be allowed to stand … a judgment, decree or order obtained by fraud has to be treated as nullity, whether by the court of first instance or by the final court.”

85. The fraud is not confined in its consequences to the order it procured. In **S.P. Chengalvaraya Naidu v. Jagannath, (1994) 1 SCC 1**, it was held, adopting the dictum of Chief Justice Edward Coke, that fraud “avoids all judicial acts, ecclesiastical or temporal”, and that a party obtaining an order by withholding material documents deserves to be thrown out at any stage of

the litigation. And in **Dalip Singh v. State of U.P., (2010) 2 SCC 114**: "a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final."

86. A party without clean hands cannot invoke an equitable jurisdiction at all. **K.D. Sharma v. Steel Authority of India Ltd., (2008) 12 SCC 48**1, paragraphs 28 and 29: a party invoking such jurisdiction "must disclose all material facts without any reservation even if they are against him" and "cannot be allowed to play 'hide and seek' or to 'pick and choose' the facts he likes to disclose"; an applicant who does not come with candid facts "cannot hold a writ of the Court with 'soiled hands'", suppression being "a jugglery, manipulation, maneuvering or misrepresentation, which has no place in equitable and prerogative jurisdiction".

87. The application is direct. The jurisdiction under Sections 241 and 242 is equitable. Appellants obtained an ex parte order restraining the Company and its subsidiaries for almost seven years upon a representation falsified by their own documents. Having set the proceedings in motion by that means, they cannot ask for equitable relief at the end of them. The taint attaches to the invocation of the jurisdiction, not merely to the interlocutory order it produced.

88. The answering Respondents further claim that the conduct has been repeated before this tribunal, and warrants inquiry. Such conduct is not to be passed over. In **Re: Suo Motu Proceedings against R. Karuppan,**

Advocate, (2001) 5 SCC 289, the Hon'ble Supreme Court held that effective and stern action is required to prevent the evil of perjury, and that “the existence of the penal provisions to deal with perjury would be a cruel joke with the society unless the courts stop to take an evasive recourse despite proof of the commission of the offence”. In **Swaran Singh v. State of Punjab, (2000) 5 SCC 668**, it was observed that perjury has become a way of life in the law courts and that judicial reluctance has permitted that state of affairs to persist. Where, as here, falsity is established not by conflicting oral testimony but by the parties' own contemporaneous documents and audio recordings, there is no occasion for such reluctance.

89. The Appellants assert that I.A. No. 78 of 2025 was allowed “without even issuing notice” and without opportunity. That is false on material already on this record as the application was served upon them twice, by advance service on 21.02.2025 and again on 28.02.2025; the order sheets produced by Respondent No. 5 himself record that it was listed under its own number from 11.03.2025; that on 29.07.2025 the Appellants' counsel appeared and the written submissions of the applicant and of Respondent Nos. 1, 3 and 5 were “on board”; that on 14.10.2025 their counsel again appeared; and that on 17.03.2026 the Ld. NCLT recorded “Heard the matter ... IA/78/ND/2025: Order reserved” with their counsel present; and the Appellants addressed that very application in their own Written Submissions dated 07.07.2025.

90. This Hon'ble Tribunal may be pleased to direct an inquiry, of its own motion, in respect of the statements made before it and in addition to affirming the direction made by the Ld. NCLT.

91. Further, ten days after the status quo order, Respondent No. 5 dated and presented the Company's security cheques for ₹40,73,334, being cheques which, on his own email of 21.10.2019, Appellant No. 1 had signed as director, and prosecuted Complaint No. 123/2020 under Section 138 through the Appellants' own counsel, suppressing the NCLT Status Quo order from the Magistrate (admitted in cross examination on 24.11.2022) and omitting Appellant No. 1. Respondent Nos. 1 and 2 stand convicted by judgment dated 12.02.2026. That conviction rests on his sworn case that the ₹40 lakh was an unpaid, enforceable debt; on the other hand, before this Hon'ble Tribunal he asserts that the same sum was converted into equity. Both cannot be true. It is respectfully submitted that the direction in I.A. No. 78 of 2025 be carried into effect without further delay.

92. The answering Respondents further contends that I.A. No. 78 of 2025 is governed by the BNSS Machinery, which neither the appellants nor respondent no. 5 has invoked.

93. I.A. No. 78 of 2025 was filed under Rule 11 of the NCLT Rules, 2016 read with Section 215 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 195 CrPC). The procedure governing such an application is prescribed by Section 379 of the Sanhita (corresponding to Section 340 CrPC). That machinery is complete in itself and provides its own

remedy. Section 380 (corresponding to Section 341 CrPC) confers a specific statutory right of appeal upon a person against whom such a complaint has been made, to the Court to which the former Court is subordinate within the meaning of Section 215(4), and declares that an order under that section, and subject thereto an order under Section 379, shall be final and shall not be subject to revision. Neither the Appellants nor Respondent No. 5 has invoked that remedy.

94. The correctness of an order made under the Section 215/379 machinery cannot be agitated collaterally as a ground in an appeal under Section 421 of the Companies Act, 2013, which furnishes a remedy against orders of the Tribunal made under that Act. The Legislature having provided a specific remedy along with a specific finality clause, that remedy must be pursued.

95. The answering Respondents further contends that the impugned order is not liable to be set aside for want of reasons. Section 424(1) of the Companies Act provides that the Tribunal "shall not … be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice." Order XIV, Order XX Rule 5 and Order XLI Rule 31 have no application. The grounds complaining that each contention was not separately adjudicated proceed upon a model of adjudication the statute does not impose.

96. **Kranti Associates (supra)** is distinguishable. The order in question in this case read as: "Heard. In view of the concurrent findings of the State

Commission, we do not find any force in this revision petition. The revision Petition is dismissed." **((2010) 9 SCC 496, paragraph 3.)** Whereas, the Impugned Order records the reliefs and rival submissions, undertakes an analysis of each document at paragraphs 23 to 26, and returns findings at 27 to 31. At paragraph 47(l) **Kranti Associates (supra)** requires reasons to be "cogent, clear and succinct": succinctness is not the vice identified; rather a pretence of reasons is.

97. Inadequacy of reasons is not absence of reasons. **Dyna Technologies Pvt. Ltd. v. Crompton Greaves Ltd., (2019) 20 SCC 1,** distinguishes absence of reasons, unintelligible reasons and merely inadequate reasons, holding that where gaps exist the Court must have regard to the documents and contentions before the tribunal so that decisions are not set aside in a casual and cavalier manner. In **G. Amalorpavam v. R.C. Diocese of Madurai, (2006) 3 SCC 224**: failure to comply with the requirements as to the form of a judgment does not vitiate it where there is substantial compliance and no prejudice is shown.

98. The burden of demonstrating prejudice lies on the Appellants: **Haryana Financial Corporation v. Kailash Chandra Ahuja, (2008) 9 SCC 31**. Where the material admits of only one conclusion, interference would be a useless formality: **Aligarh Muslim University v. Mansoor Ali Khan, (2000) 7 SCC 529**; **M.C. Mehta v. Union of India, (1999) 6 SCC 237**. The Appellants have identified no material which, had it been discussed at greater length, would have compelled a different conclusion; Here none exists.

99. In any event the Impugned Order rests on two independent foundations, namely the merits at paragraphs 27 to 29 and the want of candour at paragraphs 30 to 31 applying K.D. Sharma. The second rests on specific documents, is separately reasoned and is independently sufficient. The Appeal cannot succeed unless both grounds fall.

100. The answering Respondents further claim that the statutory grounds fail at the threshold.

- **Section 62(1)(c) and the registered valuer.** The shares allotted were those of Internet Original Documents Inc., incorporated in Delaware, USA. Respondent No. 1 did not increase its own subscribed capital. Section 62 operates upon a "company" as defined in Section 2(20), that is, an Indian company; a Delaware corporation is a foreign company within Section 2(42). Section 62, and with it the requirement of a registered valuer, has accordingly no application in present case. For the same reason Sections 42 and 53 are not applicable.

- **Section 73(2).** That provision governs acceptance of deposits from members. Rule 2(1)(c)(viii) of the Companies (Acceptance of Deposits) Rules, 2014 excludes "any amount received from a person who, at the time of the receipt of the amount, was a director of the company or a relative of the director of the private company"; Respondent Nos. 2 and 3 were directors. Further, unpaid salary is not a deposit at all, Section 2(31) requiring a receipt of money by the company. The

Appellants' case contradicts itself: they contend simultaneously that the sum was not owed to Respondent No. 2 and that it was an unsecured loan from him contrary to Section 73(2). Finally, Section 73 is legislation for the protection of depositors; the Appellants advanced no monies, are not depositors, and have no locus to invoke it.

- **Section 180** is inapplicable to a private company by virtue of notification G.S.R. 464(E) dated 05.06.2015; in any event a Special Resolution was passed.

- **Section 188**: the transaction was approved by Special Resolution, exceeding the ordinary resolution contemplated; the second proviso to Section 188(1) barring an interested member from voting does not apply to a private company under the same notification; and the Explanatory Statement disclosed the related party, the relationship, the monetary value and the price, and recorded that Respondent Nos. 2 and 3 were concerned or interested.

101. The answering Respondents further claims that there was no continuous course of oppressive conduct. Relief under Sections 241 and 242 requires conduct which is burdensome, harsh and wrongful, forming a continuous course of oppression subsisting up to the date of the petition: **Shanti Prasad Jain, AIR 1965 SC 1535; Suresh Kumar Sanghi v. Supreme Motors Ltd., [1983] 54 Comp Cas 235 (Del); Palghat Exports Pvt. Ltd. v. T.V. Chandran, [1994] 79 Comp Cas 213 (Ker)**. On the Appellants' own

pleading the grievance is confined to three connected events in 2019, namely the Board Resolution of 23.08.2019, the notice of 27.09.2019 and the EOGM of 21.10.2019, which together form a single restructuring exercise.

102. The "subsequent acts" relied upon to supply continuity are the very matters adjudicated and rejected in Contempt Application No. 09 of 2023, dismissed by separate order dated 09.07.2026. The Appellants have expressly declined to challenge that order: Ground 9.19.6 reserves liberty to challenge it "independently", and Ground 9.19.7 confines the Appeal to the Company Petition and IA 78/2025. That adjudication is final and its findings stand: no shares held by Respondent No. 1 were transferred or alienated; the change in percentage arose from a fresh issue under a contractual vesting arrangement; and the acts were disclosed in the statutory financial statements placed before the shareholders, the absence of concealment militating against deliberate wrongdoing.

103. Respondent No. 5 seeks expunction of the observations under IA 78/2025 concerning himself. He has filed no appeal and no cross objection and does not support the reliefs sought by the Appellants; a respondent who has not appealed may support the order but not seek its variation. Further, the remedy against an order under the BNSS Section 215/379 machinery lies under Section 380 of the Sanhita, which he has not invoked.

104. His complaint of no opportunity is made without disclosure of material facts. He was served with the application twice, by name, on 21.02.2025 and 28.02.2025. On 29.07.2025 his own counsel appeared, as the order sheet he

himself annexes records, in a hearing captioned under “IA/78/ND/2025”, in which his written submissions were recorded as “on board”. He had notice of the application for thirteen months before orders were reserved. All of this is suppressed by Respondent No. 5.

105. In any event no notice or hearing is required in law at that stage: **Pritish v. State of Maharashtra, (2002) 1 SCC 253; State of Punjab v. Jasbir Singh, 2022 SCC OnLine SC 1240**. His transcript comparison is not new material, the transcript having been on record since 21.02.2020.

106. By the fraudulent acts and suppressions set out above, the Appellants and Respondent No. 5 have secured the criminal conviction of Respondent Nos. 1 and 2. Each misrepresentation and suppression is a matter of record. The Appellants procured the ex parte order dated 22.10.2019 upon statements found at paragraphs 23 to 26 and 30 of the Impugned Order to have been false; that ex-parte order froze the shareholding, assets and liabilities of Respondent No. 1 and thereby rendered payment of the very sum claimed by Respondent No. 5 legally impossible; nine days later Respondent No. 5 dated and presented the cheques and thereafter instituted Complaint No. 123/2020 under Section 138 of the Negotiable Instruments Act, 1881 through the Appellants' own counsel and before the Magistrate, where he completely suppressed the NCLT order and Appellant No. 1, the second signatory to the cheques, was omitted from the array of accused (paragraph 40A above). Despite Respondent No. 2, twice informing him in writing about inability of Respondent No. 1 to honor cheques in view of the status quo on

liabilities ordered by the NCLT. Upon that record Respondent Nos. 1 and 2 were convicted by judgment dated 12.02.2026, since affirmed in appeal by judgment dated 04.08.2026, and they stand exposed to sentence. A conviction so procured is not a vindication of the case of Respondent No. 5; it is the fruit of the same fraud and suppression which vitiate the order of 22.10.2019 of the tribunal, and upon the principles in **Papayya Sastry and Chengalvaraya Naidu (Supra)** its authors cannot be permitted to retain any advantage flowing from it. The fraudulent design conceived before the Ld. NCLT travelled into the criminal courts and there yielded a conviction demonstrates that the conduct was neither casual nor inconsequential, and it warrants immediate relief.

107. It is prayed to:

(a) dismiss the Appeal and affirm the Impugned Order, with such further reasons as this Hon'ble Tribunal may consider appropriate to record;

(b) direct an inquiry, of its own motion, in respect of the statements made before it by the Appellants and the matters set out in Part VII;

(c) direct, in furtherance of the order allowing I.A. No. 78 of 2025 and in exercise of the power under Section 379 read with Section 215 of the Bharatiya Nagarik Suraksha Sanhita, 2023, that a complaint in writing be made against Appellant Nos. 1 and 2 and Respondent No. 5, by this Hon'ble Tribunal or by such officer as may be authorised in that behalf, and be sent to the Magistrate of the first class having jurisdiction, in respect of the offences disclosed by the acts and suppressions set out in Parts VI, VII and XII and at paragraphs 40A and 56A above; and

(d) award costs to the Answering Respondents.

108. In the alternative and without prejudice to the aforesaid, if any part of the Impugned Order is to be set aside, it is prayed that:

(a) it be recorded that the order dated 22.10.2019 stood dissolved upon dismissal of the Company Petition and does not revive, any application for interim protection to be considered afresh on its merits;

(b) the matter be decided on the existing record and the written submissions already filed, without fresh pleadings or further evidence; and

(c) an outer time limit be fixed for the disposal of the matter.

Analysis and Findings

109. We have considered the submissions advanced by the Appellants, Respondent No. 5 and Respondent Nos. 1 to 3, and have perused the material placed on record. We have also considered the findings returned by the Ld. NCLT in the Impugned Order dated 09.07.2026. The question before us is, whether the Impugned Order can be sustained in view of the manner in which

the issues raised by the Appellants have been dealt with and the manner in which I.A. No. 78/2025 has been disposed of.

110. At the outset, we find that the Impugned Order suffers from several infirmities. The Company Petition under Sections 241 and 242 of the Companies Act, 2013 raised several specific allegations concerning the affairs of Respondent No. 1 Company. The allegations included the proposed transfer of valuable intellectual property and business assets from Diro Inc. and Diro Labs, the proposed restructuring through Internet Original Documents Inc. (IOD), the conversion of the alleged debt of Respondent No. 2 into equity, the valuation at which such conversion was proposed, the consequential dilution of the Appellants and the alleged continuing acts of oppression and mismanagement.

111. These issues required a specific consideration based on the material placed on record by both sides. The Ld. NCLT was required to examine whether the acts complained of, viewed cumulatively and in the factual setting pleaded before it, constituted oppression of the minority shareholders or conduct prejudicial to the interests of the Company. Instead, the Impugned Order does not return any adequate and specific findings on the material contentions raised by the Appellants. In particular, the legality and effect of the discounted allotment, the disputed debt attributed to Respondent No. 2, the transfer of valuable intellectual property and the continuing course of conduct have not been dealt with by returning clear findings on the evidence available on record, which adds to the perversity.

112. The fact that the Respondent Nos. 1 to 3 have placed before us a detailed defense concerning the commercial necessity of the restructuring, that in itself does not dispense with the duty of the Adjudicating Authority to examine the case pleaded by the Appellants. The defense, that the restructuring was undertaken to address financial exigencies; that the Company was in financial difficulty; that the offer was made to other stakeholders and that Respondent No. 4 had approved the restructuring were the matters, which require consideration along with the contrary material relied upon by the Appellants. The adjudication has to be on the basis of the entire material on record and not merely on the existence of a commercial explanation for the impugned transactions.

113. The jurisdiction under Sections 241 and 242 of the Companies Act, 2013 requires the Adjudicating Authority to examine the affairs of the company in the context of the allegations placed before it. At this stage, we are not recording a final finding whether the acts complained of constitute oppression and mismanagement. However, the material placed before us, including the circumstances surrounding the proposed transfer of the assets of Diro Inc. to IOD, the subsequent dilution of the Company's interest in IOD, the alleged conversion of the disputed debt into equity and the differential consequences for the existing shareholders, does disclose a prima facie case which required proper judicious and analytical consideration by the Ld. NCLT.

114. The record also shows that the Ld. NCLT had itself, by the interim order dated 22.10.2019, directed that "We direct the status quo to be maintained

with respect to the shareholding, assets and liabilities of the respondent No. 1 Company and subsidiary /wholly owned companies of Respondent No. 1."

The said protection continued during the pendency of the Company Petition. In view of the nature of the allegations and the fact that the disputed assets, shareholding and liabilities form the subject matter of the proceedings, the continuation of an appropriate status quo during fresh adjudication is necessary so that the remand proceedings are not rendered infructuous.

115. We now come to I.A. No. 78/2025. The application alleged misrepresentation and sought initiation of proceedings for perjury against the concerned parties. Perjury is a serious allegation. Before such an allegation can result in an adverse finding or direction, the person against whom the allegation is made must have been given a fair opportunity to know the precise set of allegation, to respond to it and to place the relevant material in defense before the Adjudicating Authority.

116. In the present case, the Impugned Order records that I.A. No. 78/2025 was allowed. However, there is no clear and specific finding identifying the precise statement made by each concerned party which was found to be false, and the material on which such finding was based, and the rationale for arriving at such conclusion. The order does not set out a reasoned determination of the alleged perjury. Such an omnibus disposal of an application carrying serious civil and penal consequences cannot be sustained in the absence of adjudicatory determination.

117. We are also of the view that the principles of natural justice have not been adequately followed in dealing with I.A. No. 78/2025. The material before us does not establish that the Appellants and R5 were issued a proper notice calling upon them to answer the specific allegations of perjury before the adverse conclusions were drawn. Merely referring to an application in the course of the proceedings cannot substitute for a meaningful opportunity to answer a serious allegation of intentional falsehood. The requirement of *audi alteram partem* assumes greater significance where the allegation may expose a party to penal consequences.

118. The same deficiency is also apparent from the fact that the Impugned Order does not return a specific finding as to which statement was false, whether it was made on oath or in a proceeding before the Tribunal, whether the falsity was intentional, and whether the statutory requirements for taking further action in respect of perjury were satisfied. The application could not have been allowed in an omnibus manner without first recording the necessary findings on the ingredients of the alleged offence or misconduct. We therefore find that the order allowing I.A. No. 78/2025 cannot be sustained.

119. The finding of the Ld. NCLT that the Appellants did not approach the Tribunal with clean hands also requires reconsideration. The two matters referred to in the Impugned Order, namely the alleged understanding regarding deferment of the EGM and the dissent notes concerning the EGM proceedings, arise out of contemporaneous correspondence, the EGM record and the transcript. The material relied upon by the parties is capable of more

than one interpretation and requires a proper examination in its entirety. On the material presently before us, we are unable to hold that the Appellants deliberately misrepresented facts so as to disentitle them from seeking equitable relief.

120. In particular, the correspondence placed on record regarding the proposed arbitration and deferment of the EGM, as well as the subsequent communications, requires consideration in its complete factual sequence. Likewise, the EGM minutes, the transcript and the dissent notes have to be read together. The existence of differences between the contemporaneous dissent notes and the subsequently produced minutes does not, by itself, justify a finding of deliberate misrepresentation without a proper analysis of the evidence.

121. We therefore find that there is insufficient basis, at this stage, to hold that the Appellants misrepresented facts and did not approach the Ld. NCLT with clean hands, thereby disentitling them to equitable relief. Such a conclusion, particularly when used as an independent basis to reject a petition under Sections 241 and 242, must rest on clear and cogent findings supported by the record. The present Impugned Order does not satisfy that requirement.

122. We have also considered the contention of Respondent Nos. 1 to 3 that the restructuring was a commercial decision taken in the interest of the Company, that the Company was under financial stress, that the restructuring was approved by the requisite majority and that an opportunity

was made available to other shareholders and creditors. These are substantial matters which must be considered by the Adjudicating Authority. At the same time, the allegations of the Appellants regarding the transfer of the principal assets of the group, the subsequent reduction in the Company's interest in IOD, the treatment of the alleged debt of Respondent No. 2, the valuation adopted for the proposed allotment and the resulting dilution cannot be brushed aside merely by describing the restructuring as a commercial decision.

123. On a consideration of the entire material, we are satisfied that the Appellants have made out a prima facie case requiring fresh adjudication. These findings are confined to the necessity of reconsideration and shall not be treated as a final determination on the allegations of oppression and mismanagement. The Respondent Nos. 1, 2 and 3 shall be entitled to place all their defenses before the Ld. NCLT, and the Ld. NCLT shall consider the matter independently on the basis of the material on record and such further material as may be permitted to be placed on record in accordance with law.

124. In view of the above, we are of the considered view that the Impugned Order dated 09.07.2026 cannot be sustained. The matter is required to be remanded to the Adjudicating Authority for fresh consideration. The Ld. NCLT shall hear all sides afresh on the Company Petition and the connected issues, on the basis of the material already on record and, if considered necessary, call for replies or explanations from the parties and examine the relevant material in accordance with law.

125. Since the Company Petition has remained pending for a considerable period, the Ld. NCLT shall endeavour to decide the matter expeditiously and in a time-bound manner. At the same time, the parties shall be given a fair opportunity to address all issues arising from the pleadings and material already placed on record. Nothing contained in this judgment shall be construed as a final expression of opinion on the merits of the allegations of oppression and mismanagement.

126. Having regard to the nature of the dispute and the interim protection that operated during the pendency of the Company Petition, we consider it necessary to restore the status quo which existed pursuant to the interim order dated 22.10.2019, pending fresh adjudication. This direction is necessary to preserve the subject matter of the proceedings and to prevent the creation of any irreversible situation during the period of remand.

Conclusion

127. For the reasons recorded above, the Appeal deserves to be allowed and the Impugned Order dated 09.07.2026 is set aside. The order allowing I.A. No. 78/2025, insofar as it has been allowed against the Appellants and/or Respondent No. 5 on allegations of perjury or misrepresentation, is also set aside. The observations in the Impugned Order concerning the alleged lack of candour of the Appellants shall not operate against them in the fresh adjudication.

128. The Company Petition No. 157/241-242/ND/2019 is remanded to the Ld. NCLT for fresh consideration. The Ld. NCLT shall examine the allegations

of oppression and mismanagement raised by the Appellants and return findings on each material contention, including the issues concerning the restructuring, transfer of assets and intellectual property, alleged debt and its conversion, valuation, allotment and dilution, and the subsequent conduct relied upon by the parties.

129. The Ld. NCLT shall hear all sides again on the basis of the materials already on record and, if need be, call for replies, explanations or such further material as may be considered necessary. The parties shall be at liberty to address the issues in accordance with law. The Ld. NCLT shall decide the Company Petition expeditiously and in a time-bound manner.

130. Until the final decision of the Ld. NCLT, the status quo as existing pursuant to the interim order dated 22.10.2019 shall stand restored and shall continue. The Respondent Nos. 1 to 3 are directed to preserve the status quo with respect to the shareholding, assets and liabilities of Respondent No. 1 Company and its subsidiary / wholly owned companies of Respondent No. 1. No party shall take any step which has the effect of altering the shareholding, assets or liabilities forming the subject matter of the present proceedings or creating any irreversible third-party rights, except with the leave of the Ld. NCLT.

131. We make it clear that the present judgment does not finally decide the allegations of oppression and mismanagement or the competing factual assertions of the parties. All suchp issues are left open for consideration by the Ld. NCLT on remand. The observations made herein are only for the

purpose of determining the sustainability of the Impugned Order and the necessity of remand.

Order

132. In the result, the Appeal is allowed.

133. The Impugned Order dated 09.07.2026 passed by the Ld. National Company Law Tribunal, New Delhi Bench-IV in Company Petition No. 157/241-242/ND/2019 is set aside.

134. I.A. No. 78/2025 is set aside to the extent it has been allowed on allegations of perjury and/or misrepresentation. Any adverse finding against the Appellants and Respondent No. 5 on that account shall not survive.

135. Company Petition No. 157/241-242/ND/2019 is remanded to the Ld. NCLT for fresh consideration in accordance with law. The Ld. NCLT shall hear all sides afresh, consider the materials already on record and, if necessary, call for further replies or explanations.

136. The Ld. NCLT shall decide the Company Petition expeditiously and in a time-bound manner.

137. Until the final decision of the Ld. NCLT, the status quo as existing pursuant to the interim order dated 22.10.2019 shall continue. The Respondent Nos. 1 to 3 shall preserve the status quo with respect to the shareholding, assets and liabilities of Respondent No. 1 Company and subsidiary / wholly owned companies of Respondent No. 1.

138. It is clarified that this Tribunal has not expressed any final opinion on the allegations of oppression and mismanagement. All contentions of all parties are left open for determination by the Ld. NCLT on remand.

139. All IAs are disposed as per this order. No order as to costs.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Arun Baroka]
Member (Technical)

[Indevar Pandey]
Member (Technical)

New Delhi.
September 25, 2026.

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