IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-V NEW DELHI BENCH

I.A. No. 86/2026

In

COMPANY PETITION (IB) NO. 175/ND/2025

Under Section 65 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 11 of NCLT Rules, 2016.

IN THE MATTER OF:

SREI EQUIPMENT FINANCE LTD.

... Applicant / Financial Creditor

Versus

JBJ TECHNOLOGIES LIMITED

...Respondent/Corporate Debtor

AND IN THE MATTER OF:

JBJ TECHNOLOGIES LIMITED
Through its Authorized Representative
Devendra Sharma,
Having its registered office at:
Udyog Kendra 2, Ecotech 3,
Greater Noida, Uttar Pradesh

... Applicant / Corporate Guarantor

Versus

SREI EQUIPMENT FINANCE LTD.
Through its Authorised signatory
Mr. Pradeep Faujdar,
Having its registered office at;
D-2, 5th Floor, Southern Park,
Saket Place, Saket, New Delhi - 110017

...Respondent/ Financial Creditor

Order Delivered on: 06.11.2026

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)

MS. REENA SINHA PURI,
HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant: Adv. Ranjana Roy Gawai.

ORDER

1. The present application has been filed by JBJ Technologies Limited (Applicant) under Section 65 of the IBC[1] read with Rule 11 of the National Company Law Tribunal Rules, 2016, against SREI Equipment Finance Ltd (Respondent), with the following prayers:

   a. *Allow the present Application filed under Section 65 of the Insolvency and Bankruptcy Code, 2016;*

   b. *Pass an order, dismissing captioned petition i.e., CP (IB) No. 175 of 2025 titled as "SREI Equipment Finance Ltd v. JBJ Technologies Limited." having been filed fraudulently & malicious intent for purpose other than for resolution of insolvency;*

   c. *Pass an order under Section 65 of the Insolvency and Bankruptcy Code, 2016, imposing heavy and exemplary cost against the Financial Creditor i.e., SREI Equipment Finance Ltd for filing frivolous petition under Section 7 of the Insolvency and Bankruptcy Code, 2016;*

   d. *Pass any other order (s) as it may deem fit in the interest of justice.*

[1] Insolvency and Bankruptcy Code, 2016

2. The Applicant submits that the Respondent entered into two Loan Agreements bearing Nos. 156129 and 156131, both dated 15.03.2018, with the Principal Borrower, Late Mr. Sanjay Prakash, for an aggregate amount of Rs. 6,65,00,000. The Respondent's claim against the Applicant rests upon the two purported Deeds of Corporate Guarantee, both dated 15.03.2018, the execution and genuineness of which are disputed.

3. The Applicant contends that it never authorised, executed or delivered any Corporate Guarantee. It alleges that the Respondent fabricated the documents by misusing blank documents entrusted to it during the course of their business dealings. It further alleges that the Respondent suppressed material facts and initiated insolvency proceedings to coerce the Applicant into an unwarranted settlement, rather than to pursue a genuine resolution of insolvency.

4. Questioning the authenticity of the guarantees, the Applicant points out that they bear a franking date of 10.03.2017, whereas their purported date of execution is 15.03.2018. It contends that the Respondent has failed to satisfactorily explain this discrepancy. The guarantees also refer to a Board Resolution dated 14.03.2018 authorising their execution; however, no such resolution has been placed on record. According to the Applicant, the guarantees cannot bind it in the absence of the requisite authorisation.

5. The Applicant further relies upon Column No. 24 of the Sanction Letter, which records the requirement of a guarantor as "NA", and Serial No. 11 of Schedule VII to the Loan Agreements, which records that no security was provided. Although Schedule VI to each Loan Agreement contains a designated guarantor column, neither column bears the Applicant's signature or company stamp. The Applicant also relies upon the Registrar of Companies' master data to contend that no charge relating to the alleged transaction was created or registered.

6. The Applicant alleges suppression of the Respondent's communication dated 28.03.2022, which stated that no dues were outstanding against the Applicant and that the No Objection Certificate ("NOC") was being withheld solely because of overdue amounts in the Principal Borrower's separate loan account. It contends that this communication is inconsistent with the subsequent assertion of a subsisting guarantee liability. The Applicant further points out that the notices dated 29.11.2022 and 30.12.2022, issued under Section 25(1C) of the Payment and Settlement Systems Act, 2007, in respect of defaults under Loan Account Nos. 156129 and 156131, contain no reference to the purported guarantees or the Applicant's liability thereunder.

7. The Applicant submits that the Respondent first forwarded copies of the purported guarantees and asserted liability against it by email dated 20.02.2023, nearly five years after their alleged execution. The Applicant denied having executed the guarantees by email dated 23.02.2023. It alleges that the Respondent suppressed this correspondence and

claimed Rs. 10,15,91,380 without duly accounting for repayments of Rs. 5,47,48,835 made by the Principal Borrower. According to the Applicant, the alleged concealment of repayments and material correspondence warrants action under Section 65 of the IBC.

8. The Applicant further submits that the Principal Borrower, Late Mr. Sanjay Prakash, was a director and related party of the Applicant Company at the relevant time. It contends that the purported guarantees contravened Section 185 of the Companies Act, 2013, and that no requisite special resolution authorising them was passed by its shareholders. On this basis, it submits that the guarantees are void and unenforceable and cannot give rise to a financial debt under Section 5(8) of the IBC.

9. The Applicant accordingly contends that the Respondent's claim rests entirely upon documents whose execution, authenticity and enforceability have not been established. It alleges that the Section 7 proceedings were initiated fraudulently and with malicious intent, for a purpose other than the resolution of insolvency, and seeks dismissal of the petition with exemplary costs.

Analysis and decision

10. We have heard learned counsel for the Applicant and perused the pleadings, documents and submissions on record. The principal issue is whether the Respondent initiated the Section 7 proceedings fraudulently

or with malicious intent, for a purpose other than the resolution of insolvency, so as to attract Section 65 of the IBC.

11. Section 65 does not expressly restrict the category of persons who may bring fraudulent or malicious initiation of insolvency proceedings to the notice of the Adjudicating Authority. The Applicant, being the company against which the Section 7 petition has been filed, is directly affected by those proceedings and is entitled to seek examination of its allegations under that provision.

12. The term malicious has not been defined in IBC. Therefore, at this juncture we refer to the Judgement of Hon'ble Supreme Court, passed in the matter of *West Bengal State Electricity Board Vs Dilip Kumar Ray*[2], dated 24.11.2006, wherein the term 'malicious' has been discussed. The extracts of the Judgement are reproduced below:

'Malice means in law wrongful intention. It includes any intent which the law deems wrongful, and which therefore serves as a ground of liability. Any act done with such an intent is, in the language of the law, malicious, and this legal usage has etymology in its favour. The Latin malitia means badness, physical or moral - wickedness in disposition or in conduct – not specifically or exclusively ill-will or malevolence; hence the malice of English law, including all forms of evil purpose, design, intent, or motive. But intent is of two kinds, being either immediate or ulterior, the ulterior intent being commonly distinguished as the motive. The term malice is applied in law to both these forms of intent, and the result is a somewhat puzzling ambiguity which requires careful notice. When we say that an act is done maliciously, we mean one of the two distinct things. We mean

[2] *West Bengal State Electricity Board Vs Dilip Kumar Ray*, Civil Appeal 5188 of 2006

either that it is done intentionally, or that it is done with some wrongful motive.'

13. Thus, for Section 65 to apply, it must be established that the insolvency proceedings were initiated fraudulently or with malicious intent for a purpose other than resolution of insolvency or liquidation. The mere failure of a Section 7 application, or the inability to establish a financial debt, would not, by itself, constitute malicious initiation. The conduct of the initiating party, the material available to it at the time of filing, and the purpose for which the insolvency process was invoked must be examined. The use of the expression "initiates" in Section 65 also does not confine its application to any particular stage of the CIRP.

14. We observe that the Respondent's claim against the Applicant is founded entirely upon two purported Corporate Guarantees dated 15.03.2018, which refer to a Board Resolution dated 14.03.2018 authorising Mr. Sanjay Prakash to execute the same on behalf of the Applicant. Despite the specific denial of such authorisation, the Respondent has failed to produce the said resolution or any other material establishing that the guarantees were executed by a duly authorised representative of the Applicant.

15. The contemporaneous financing documents also require consideration. The Sanction Letter[3] dated 14.03.2018 records the requirement of a guarantor as "NA"; Serial No. 11 of Schedule VII to the Loan Agreements[4]

[3] Annexure G, Page 74 and Annexure I, Page No. 115 of the Petition
[4] Annexure H, Page No. 106 and Annexure J, Page No. 147 of the Petition

records that no security was provided; and the designated guarantor column in Schedule VI bear neither the Applicant's signature nor its Company stamp[5]. These features assume significance when considered with the absence of the authorisation expressly referred to in those guarantees.

16. The Respondent's communication dated 28.03.2022, issued after the Principal Borrower's demise, states that no dues were outstanding under the Applicant's loan accounts or contracts and that the NOC was being withheld because of overdue amounts in the Principal Borrower's separate loan account. Further, the notices dated 29.11.2022 and 30.12.2022, issued under Section 25(1C) of the Payment and Settlement Systems Act, 2007, in relation to defaults under the two Loan Agreements, do not refer to the purported guarantees or assert liability against the Applicant as Corporate Guarantor. These documents form a material part of the correspondence relevant to the claim advanced against the Applicant.

17. Respondent furnished copies of the purported guarantees and asserted liability against the Applicant only by email dated 20.02.2023, whereafter the Applicant disputed their execution by communication dated 23.02.2023. Thus, before instituting the Section 7 petition, the Respondent was aware of the specific challenge to the very foundation of its claim. Nevertheless, it proceeded without satisfactorily addressing the

[5] Annexure H, Page No. 105 and Annexure J, Page No. 146 of the Petition.

absence of authorisation and the inconsistencies identified above. Its non-disclosure of the communication dated 28.03.2022, the notices dated 29.11.2022 and 30.12.2022, and the Applicant's denial dated 23.02.2023, meant suppression of material correspondence bearing directly upon the alleged guarantee liability.

18. Our conclusion does not rest merely upon the disputed execution of the guarantees or the failure to establish a financial debt. It rests upon the cumulative effect of the Respondent's reliance on the disputed guarantees without producing the authorisation expressly cited therein, its prior knowledge of the Applicant's categorical denial, and its suppression of material correspondence relevant to that liability. Considered together, these circumstances establish that the insolvency process was invoked to exert pressure upon the Applicant rather than to pursue a bona fide resolution of insolvency.

19. Considering all the material on record, we are of the view that the Respondent filed the Application under Section 7 of the IBC fraudulently and with malicious intent for purpose other than for resolution of insolvency. We are satisfied that the Respondent's conduct attracts Section 65(1) of the Code. The knowing suppression of material correspondence, coupled with the circumstances in which the disputed guarantee liability was asserted, constitutes an abuse of the insolvency process. Having regard to the nature and gravity of that conduct, we consider a penalty of Rs 1 crore appropriate.

20. Accordingly, the following orders are passed:

i. IA No. 86 (ND)/2026 in C.P. IB-175/ND/2025, filed under Section 65 of the IBC, is allowed.

ii. C.P. IB-175/ND/2025 is dismissed and stands closed.

iii. A penalty of Rs. 1,00,00,000 (Rupees One Crore) is imposed upon SREI Equipment Finance Limited under Section 65(1) of the Code for fraudulent and malicious initiation of insolvency proceedings.

iv. The aforementioned penalty amount shall be deposited with the Insolvency and Bankruptcy Board of India (IBBI) within 30 days from the date of this order.

21. The Registry is directed to forward a copy of this order to the IBBI for its records and necessary action.

Sd/-

(REENA SINHA PURI)
MEMBER (TECHNICAL)

Sd/-

(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (JUDICIAL)