

ACUTE DAILY MEDIA PRIVATE LIMITED & ORS. VS M/S ROCKMAN ADVERTISING AND MARKETING INDIA LTD & ORS.

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Summary of the Case

1. Details of the Parties

Appellants:

1. M/s Acute Daily Media Pvt. Ltd. & Ors.
2. MAYANK JAIN
3. HIT KISHOORE JAIN
4. DEEPANSHI JAIN
5. REKHA JAIN
6. OJASWI JAIN

Respondents:

1. M/s Rockman Advertising and Marketing
2. M/S SHARP EYE ADVERTISING PVT. LTD.
3. ARPAN GUPTA
4. POOJA AGARWAL
5. MUKESH GUPTA
6. PADMA GUPTA
7. DINESH GUPTA
8. RAKESH GUPTA
9. URMIL GUPTA
10. GAURAV GUPTA

2. Facts of the Case

- The Appellants filed a Section 7 application under the IBC, leading to the initiation of CIRP against the Corporate Debtor on 17.05.2022.
- Subsequently, a Section 65 application was filed, alleging that:
 - Routine business transactions were fraudulently portrayed as loan transactions to meet the definition of “financial debt” under Section 5(8) of the IBC.
 - Key facts were suppressed, and false documents were presented before the Adjudicating Authority.
 - Several statutory and procedural violations occurred in the loan agreements and their execution.

3. Issues Involved

1. Validity of Loan Transactions:

- Whether the alleged loans qualify as “financial debt” under Section 5(8) of the IBC.
- Alleged discrepancies in loan agreements, including incorrect addresses, antedated agreements, and absence of stamping.

2. Compliance with Companies Act:

- Non-compliance with Section 186(2) of the Companies Act regarding the authorization and disclosure of loans.
- Clubbing of private loans with corporate loans in financial statements.

3. Fraudulent Intent:

- Whether the CIRP initiation was fraudulent and aimed at achieving objectives other than insolvency resolution.

4. Role of Adjudicating Authority:

- Whether the authority was correct in recalling the CIRP admission order based on the findings of

fraudulent intent under Section 65 of the IBC.

4. Judgement

- The Adjudicating Authority (AA) reviewed evidence from the Section 65 application, including discrepancies in:
 - Board Meeting records and resolutions authorizing loans.
 - Loan agreements containing references to the IBC before its effective date.
 - Financial records of the Corporate Debtor and Financial Creditors, which failed to reflect loans, accrued interest, or borrowing costs.
- The AA found that:
 - The loan transactions were fabricated and misrepresented as financial debts.
 - The statutory auditor's reports and balance sheets contradicted the Appellants' claims of debt and default.
 - The initiation of CIRP was motivated by fraud and collusion between the Appellants and the Corporate Debtor's promoters.
- Based on the cumulative evidence, the AA upheld the Section 65 application, deemed the CIRP fraudulent, and recalled the CIRP admission order of 17.05.2022.
- The appeal against this decision was dismissed as lacking merit.

5. Conclusion

- The case highlights the importance of genuine, bona fide transactions and compliance with statutory requirements in insolvency proceedings.
- Fraudulent use of insolvency mechanisms, as evidenced by fabricated loan agreements and misrepresented facts, cannot be allowed under the IBC.
- The judgement reinforces the role of adjudicating authorities in ensuring that insolvency laws are not

abused for ulterior motives. The CIRP initiation was found to be fraudulent and malicious, leading to its reversal under Section 65 of the IBC.

This decision emphasizes the need for financial discipline, transparency, and ethical conduct by both creditors and debtors in insolvency proceedings.