

A transactional audit report alone cannot be conclusive proof of fraudulent trading under Section 66 of the IBC

The NCLAT, New Delhi, in the case of **Nalinesh Kumar Paurush v. Shree Vishvamurte Tradinvest Pvt Ltd. [Company Appeal (AT) (Insolvency) No. 346 of 2024]** dated **September 25, 2025**, has held that a transactional audit report alone cannot be conclusive proof of fraudulent trading under section 66 of the Insolvency and Bankruptcy Code, 2016 (IBC). The Tribunal observed that every commercial transaction that results in 'loss' may not be labelled as fraudulent, and the failure to exercise due diligence may not be sufficient to label a transaction fraudulent for the purpose of section 66 IBC.

The NCLAT also observed from a combined reading of the clauses that at the time of making the transaction, the suspended director must know that there is no reasonable prospect of avoiding the CIRP process, and they failed in exercising due diligence to minimize the potential loss. The Tribunal further observed that in the absence of any direct evidence, the purchase of shares of unlisted companies cannot be considered to be an act of fraud.