

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1466 of 2025

&

I.A. No. 5710 of 2025

IN THE MATTER OF:

**Rakesh Kumar Tulsyan,
Liquidator, Vipul S Plastocrafts Pvt. Ltd.**

...Appellant

Versus

Omkara Asset Reconstruction Pvt. Ltd.

...Respondent

Present:

**For Appellant : Mr. Prakhar Tandon and Mr. Agam H. Maloo,
Advocates.**

**For Respondent : Ms. Muskan Malhotra and Mr. Sidhant Malik,
Advocates.**

O R D E R
(Hybrid Mode)

24.09.2025: I.A. No. 5710/2025

1. This is an application praying for condonation of 12 days delay in filing of the appeal.
2. We find sufficient cause shown in the paragraph 1 of the delay condonation application.

Delay condoned.

Comp. App. (AT) (Ins.) No. 1466/2025

1. Heard learned counsel for the appellant as well as learned counsel appearing on behalf of the respondent.
2. This appeal has been filed against an order dated 08.07.2025 passed by the adjudicating authority (National Company Law Tribunal (NCLT),

Mumbai Bench, Court – I), in I.A. No. 717/2025. The application was filed by the appellant, the liquidator seeking a direction praying for following reliefs:

“a) Your Lordship may be pleased to allow the present application; b) Your Lordship may be pleased to direct the respondent, Omkar Asset Reconstruction Private Limited to pay the Liquidation Cost amounting to INR 98,99,286/- which includes Liquidator fee of INR 91,82,375/- as per regulation 21A r/w Regulation 4(2)(b) of the IBBI (Liquidation Process) Regulations 2016.

c) Your Lordship may be pleased to grant any other relief or relief as may deem fit in the interest of justice”

3. The liquidation commenced on 23.11.2023. The secured creditor did not relinquish their security and assets were auctioned on 11.06.2024 and 24.09.2024. Appellant could not get the liquidation fee for liquidator hence I.A. was filed with the prayers as quoted above.

4. Adjudicating authority by the impugned order has partly allowed the application and issued following directions in paragraphs 8.6 & 9:

“8.6. In view of the aforesaid, we are of considered view that the Applicant liquidator is entitled to his fees in terms of Regulation 4(2)(b) of Liquidation Process Regulations. In the present case, the Plant & Machinery was realised in auction conducted on 11.6.2024 and the land and building (immovable assets) was realised in E-Auction concluded on 24.09.2024. The Liquidation of the Corporate Debtor commenced on 23.11.2023 and the Order of Liquidation is stated to be communicated to the Liquidator on 7.12.2023. In other words, both the assets were realised in period after six month but before 1 year (second six month). Accordingly, the Application Liquidator is entitled to liquidation fees on the amount realised after deduction of cost of realisation incurred by the Respondent at the rates prescribed in third column of Table in Regulation 4(2)(b) i.e. @ 3.75% on first 1.00 Crores; @ 2.80% on next 9 Crores; @ 1.88% on balance amount. Besides this, the Respondent shall also be liable to pay Liquidation cost,

if any incurred, in proportion to value of security realised bears to total value realised in liquidation process. Accordingly, the Respondent is directed to compute the fees and remit the same within 30 days from the date of this order.

9. In view of the aforesaid, IA 717 of 2025 is partly allowed and disposed of.”

5. Appellant aggrieved by the said order to the limited extent that adjudicating authority has directed for payment of fee in the second slab of 6 months instead of first 6 months, has come up in this appeal. He submits that according to own case of financial creditor, the possession was given on 08.04.2024 hence the period of 6 months should be counted from 08.04.2024 and hence first auction was held within 6 months period, then slab of 6 months has to be applied.

6. Learned counsel for the respondent opposing the submission submitted that the fee has been paid to the liquidator which is opposed by the appellant.

7. We have considered the submission of the counsel for the parties and perused the records.

8. In paragraph 8.6 as extracted above, adjudicating authority has held that the plant and machinery was realise in auction conducted on 11.06.2024 and the land and building was realised on 24.09.2024. Liquidation commencement has been noticed as 23.11.2023, hence finding was returned that assets were realise after 6 months before one year. Adjudicating authority held that appellant was entitled for liquidation fee as prescribed in 3rd column of table in Regulation 4(2)(b). The Regulation 4(2)(b) of the Insolvency and Bankruptcy Board on India (Liquidation Process), Regulations 2016 provides as follows:

“4: Liquidator’s fee.

(2) In cases other than those covered under sub-regulation (1) [and (1A)], the liquidator shall be entitled to a fee-

(b) as a percentage of the amount realised⁴ net of other liquidation costs, and of the amount distributed, for the balance period of liquidation, as under:

<i>Amount of Realisation / Distribution (In rupees)</i>	<i>Percentage of fee on the amount realized / distributed</i>		
	<i>in the first six months</i>	<i>in the next six months</i>	<i>thereafter</i>
<i>Amount of Realisation (exclusive of liquidation costs)</i>			
<i>On the first 1 crore</i>	<i>5</i>	<i>3.75</i>	<i>1.88</i>
<i>On the next 9 crore</i>	<i>3.75</i>	<i>2.80</i>	<i>1.41</i>
<i>On the next 40 crore</i>	<i>2.50</i>	<i>1.88</i>	<i>0.94</i>
<i>On the next 50 crore</i>	<i>1.25</i>	<i>0.94</i>	<i>0.51</i>
<i>On further sums realized</i>	<i>0.25</i>	<i>0.19</i>	<i>0.10</i>
<i>Amount Distributed to Stakeholders</i>			
<i>On the first 1 crore</i>	<i>2.50</i>	<i>1.88</i>	<i>0.94</i>
<i>On the next 9 crore</i>	<i>1.88</i>	<i>1.40</i>	<i>0.71</i>
<i>On the next 40 crore</i>	<i>1.25</i>	<i>0.94</i>	<i>0.47</i>
<i>On the next 50 crore</i>	<i>0.63</i>	<i>0.48</i>	<i>0.25</i>
<i>On further sums distributed</i>	<i>0.13</i>	<i>0.10</i>	<i>0.05</i>

[Clarification: For the purposes of clause (b), it is hereby clarified that where a liquidator realises any amount, but does not distribute the same, he shall be entitled to a fee corresponding to the amount realised by him. Where a liquidator distributes any amount, which is not realised by him, he shall be entitled to a fee corresponding to the amount distributed by him.]”

9. In the sub-clause (b) the fee is provided in three columns i.e., “in the first 6 month”, “in the next 6 month” and “thereafter”. The use of expression “first 6 moths” obviously relates to the date of the liquidation commencement. The said date is not a flexible date as contended by the learned counsel for the appellant or dependent on the date when possession was received by the secured creditor who had not relinquished its security. The period for completion of liquidation is prescribed in the regulation and the period of 6 months is with respect to the period of liquidation which commences from liquidation commencement date.

10. We thus are of the view that adjudicating authority has rightly partly allowed the application filed by the appellant and the submission of the appellant that he was entitled slab of fee for the first 6 months cannot be accepted.

11. We thus do not find any error in order of the adjudicating authority deciding the application filed by the liquidator.

Appeal is dismissed accordingly.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

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