



**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**KOLKATA BENCH, COURT-II**

**KOLKATA**

**I.A. (IB) No. 1353/KB/2025**

**IN**

**C.P.(IB) No. 658/(KB)/2020**

An application under Section 60(5) and other relevant provisions of Insolvency and Bankruptcy Code, 2016 read with rule 11 of National Company Law Tribunal Rules, 2016.

**IN THE MATTER OF:**

Apundarik Merchants Private Limited

... Financial Creditor

Versus

Citylife Retail Private Limited

... Corporate Debtor

**And**

**IN THE MATTER OF:**

Aneel Saraogi, Liquidator of Citylife Retail Private Limited

... Applicant/Liquidator

Versus

Axis Bank Limited

... Respondent



**Coram:**

**Shri Labh Singh** : **Member (Judicial)**

**Ms. Rekha Kantilal Shah** : **Member (Technical)**

**Appearances (via physical mode/virtual mode)-**

**For the Applicant/Liquidator**

- i. Mr. Shaunak Mitra, Adv.
- ii. Mr. Amandeep Singh, Adv.
- iii. Mr. Saurav Jain, Adv.

**For Axis Bank Ltd.**

- i. Mr. Debtanay Banerjee, Adv.
- ii. Mr. Vishal Singh, Adv.

**Date of Pronouncement- 21.04.2026**

**ORDER**

**Per: Rekha Kantilal Shah, Member (Technical)**

1. The present application has been preferred by the Liquidator of Citylife Retail Private Limited (hereinafter referred to as "CD") praying for the following reliefs:-

*"(A) The Hon'ble Tribunal may be pleased to direct the Respondent Bank to forthwith remove the Lien of Rs. 9,70,340/- (Rupees Nine Lakhs Seventy Thousand Three Hundred and Forty only) marked on the liquidation account of the Corporate Debtor, bearing Account No. 922020050873716 maintained with Axis Bank, Sarat Bose Road Branch, Kolkata, being contrary to the provisions of the Insolvency and Bankruptcy Code, 2016;*

*(B)The Hon'ble Tribunal may be pleased to restrain the Respondent Bank from in any manner creating, continuing, or enforcing any Lien, attachment, or encumbrance over the liquidation account of the Corporate Debtor during the pendency of the liquidation proceedings, except with prior leave of this Hon'ble Tribunal;*

*(C) Ad-interim orders in terms of prayers above;*

*(D) Such other and/or further orders as this Hon'ble Tribunal deems fit and proper;"*

## 2. Background of the Case

- 2.1 The Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") in respect of the CD commenced on 31<sup>st</sup> May, 2025 vide an order passed by this Tribunal. Subsequently, by an order dated 22<sup>nd</sup> July, 2021 passed by this Tribunal the Applicant was appointed as the Resolution Professional (hereinafter referred to as "RP") in respect of the CD. As no Resolution Plan was received by the RP during the CIRP, this Tribunal ordered for the CD to be liquidated and appointed the applicant as the liquidator vide an order 13<sup>th</sup> September, 2022.
- 2.2 Pursuant to his appointment as a Liquidator, the applicant opened a Bank Account in name of the CD in terms of Regulation 41 of the Liquidation Process Regulations with Axis Bank, Sarat Bose Road Branch, Kolkata.
- 2.3 The Liquidator on the last date of submission of claim, as per the public announcement had received 524 claims from various stakeholders. As such, the applicant upon verifying the claims had prepared the list of stakeholders and submitted the list of stakeholders before this Tribunal on 26<sup>th</sup> November, 2011. Subsequently, two claimants submitted their claims after the last date for submission of claims, and the same were rejected by the liquidator. However, pursuant to applications filed by the said claimants, this Tribunal condoned the delay in respect of the said claims vide an order dated 08<sup>th</sup> February, 2023. Pursuant to such condonation, the applicant submitted the updated and final list of stakeholders by way of an application and the same was taken on record by an order dated 04<sup>th</sup> July, 2023.
- 2.4 Subsequently, in the year 2025, the Applicant received an email from Axis Bank stating therein that a lien of Rs. 9,70,340/-



(Rupees Nine Lakhs Seventy Thousand Three Hundred and Forty) has been marked in the liquidation account of the CD pursuant to receipt of a notice dated 14<sup>th</sup> February, 2025 issued by Commercial Tax Department, Lucknow.

2.5 It is this lien, marked by Axis Bank in favour of the Commercial Tax Department, that forms the genesis of the dispute in the present case.

**3. Submissions on behalf of the Applicant/Liquidator**

3.1 The Liquidator upon receipt of aforesaid email from Axis Bank, visited the Sarat Bose Road Branch of the Bank and made a formal request for removal of lien marked on the liquidation account of the CD.

3.2 It has been submitted that the said request was made to ensure that the liquidation proceeds remain available for distribution in accordance with the priority waterfall mechanism stipulated under Section 53 of the Code, free from any unauthorised encumbrance or restraint.

3.3 However, it has been submitted that the Bank Officials stated that they were unable to remove the said lien without obtaining a No Objection Certificate from the Commercial Tax Department, Lucknow as per their internal procedural requirements.

3.4 Subsequently, the applicant wrote various email and letters to the Respondent Bank to remove the lien. The Bank vide an letter dated 28<sup>th</sup> July, 2025, replied to the Applicant thereby stating that they have formally communicated with the Commercial Tax Department, Lucknow seeking a No Objection Certificate (NoC) for removal of the said lien. It was further stated in the letter that upon receipt of the requisite NoC or formal clearance, the Bank would lift the lien forthwith.



- 3.5 It has been submitted that the Commercial Tax Department, Lucknow has never filed its claim with the Applicant during the Liquidation Process.
- 3.6 It has been submitted that despite repeated reminders and follow ups, the Respondent Bank has failed to remove the said Lien from the liquidation bank account of the CD, thereby causing unwarranted hindrance in the due process of liquidation.
- 3.7 It has been submitted that under the IBC, once a liquidation order is passed and a liquidator is appointed, the liquidation estate (including the CD's Bank accounts) vests in the Liquidator. It has further been submitted that no fresh lien or attachment can be created over the liquidation account without the liquidator's consent or orders of this Adjudicating Authority.
- 3.8 It has been submitted that the Liquidation period is nearing its conclusion and the lien is posing hindrance in the Liquidation process. It has been submitted that unless this Tribunal intervenes in the matter, the lien would create an indefinite delay in the Liquidation Process. As such it has been prayed that this Tribunal direct the Respondent Bank to remove the lien marked on the liquidation account of the CD bearing no. 9220200050873716.

#### 4. Analysis & Findings

- 4.1 We have gone through the case file carefully and perused the pleadings of the Applicant, the documents placed on record, the arguments put forth by the counsel for the parties and we shall now proceed to consider the present application on its merits.
- 4.2 It is pertinent to mention herein that vide order 09<sup>th</sup> January, 2026, the Registry had been directed to issue notice upon the respondent. The Respondent Bank was thereby directed to file its Reply to the application within a period of fifteen days from



the receipt of notice and the matter was directed to be listed on 09<sup>th</sup> March, 2026. Subsequently, on 09<sup>th</sup> March, 2026 the Ld. Counsel for the Respondent Bank appeared before this Tribunal and stated that the Respondent Bank does not want to file a Reply affidavit to the present application. As such, the same was recorded in the Order dated 09<sup>th</sup> March, 2026 and the stage for filing the reply by the Respondent was closed and after hearing counsel for both the parties, the matter was reserved for orders.

- 4.3 In the present case, a lien has been marked over the liquidation account of the CD, maintained with Axis Bank, Sarat Bose Road Branch. The said lien has been marked over the account by the Respondent Bank, upon receipt of a notice dated 14<sup>th</sup> February, 2025 issued by the Commercial Tax Department, Lucknow. It is crystal clear that the notice of the Tax Department has been issued subsequent to the initiation of the liquidation proceedings in respect of the CD, which commenced vide order dated 13<sup>th</sup> September, 2022.
- 4.4 It is important to refer to certain provisions of the IBC, 2016 and the Liquidation process regulations before we finally adjudicate the dispute in the present case.

Section 33(5) of the IBC, 2016 provides as follows-


*“(5) Subject to section 52, when a Liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor:*

*Provided that a suit or other legal proceeding may be instituted by the liquidator, on behalf of the corporate debtor, with the prior approval of the Adjudicating Authority.”*

Sub-Sections 1,2,3 and 4 of Section 36 of the IBC, 2016 read as follows-

*“36. Liquidation estate. -*

*(1) For the purposes of liquidation, the liquidator shall form an estate of the assets mentioned in sub-section*



(3), which will be called the liquidation estate in relation to the corporate debtor.

(2) The liquidator shall hold the liquidation estate as a fiduciary for the benefit of all the creditors.

(3) Subject to sub-section (4), the liquidation estate shall comprise all liquidation estate assets which shall include the following: -

(a) any assets over which the corporate debtor has ownership rights, including all rights and interests therein as evidenced in the balance sheet of the corporate debtor or an information utility or records in the registry or any depository recording securities of the corporate debtor or by any other means as may be specified by the Board, including shares held in any subsidiary of the corporate debtor;

(b) assets that may or may not be in possession of the corporate debtor including but not limited to encumbered assets;

(c) tangible assets, whether movable or immovable;

(d) intangible assets including but not limited to intellectual property, securities (including shares held in a subsidiary of the corporate debtor) and financial instruments, insurance policies, contractual rights;

(e) assets subject to the determination of ownership by the court or authority;

(f) any assets or their value recovered through proceedings for avoidance of transactions in accordance with this Chapter;

(g) any asset of the corporate debtor in respect of which a secured creditor has relinquished security interest;

(h) any other property belonging to or vested in the corporate debtor at the insolvency commencement date; and

(i) all proceeds of liquidation as and when they are realised.”

As such, any monies held by the liquidator in the Liquidation Account of the CD would be covered under clauses (a), (c), (h) or (i) of Section 36(4) of the IBC, 2016.

Section 38 stipulates the duty of the liquidator to receive and collate claims of the creditors and provides as to how, creditor



be it Financial, Operational or partly financial and party operational, may file their claim before the liquidator.

Further, in case a claim of any creditor is rejected by the liquidator, the creditor may appeal against such rejection before the Adjudicating Authority in terms of Section 42 of the Code.

Section 53 of the IBC provides the hierarchy and manner in which the proceeds from the sale of the liquidation assets shall be distributed to the creditors, including Central Government and State Governments, of the CD.

Regulation 41 of the Liquidation Process Regulations reads as follows:-

*“41. All money to be paid in to bank account.*

*(1) The liquidator shall open a bank account in the name of the corporate debtor followed by the words ‘in liquidation’, in a scheduled bank, for the receipt of all moneys due to the corporate debtor.*

*(2) The liquidator shall deposit in the bank account opened under sub-regulation (1) all moneys, including cheques and demand drafts received by him as the liquidator of the corporate debtor, and the realizations of each day shall be deposited into the bank account without any deduction not later than the next working day.*

*(3) The liquidator may maintain a cash of one lakh rupees or such higher amount as may be permitted by the Adjudicating Authority to meet liquidation costs.*

*(4) ALL payments out of the account by the liquidator above five thousand rupees shall be made by cheques drawn or online banking transactions against the bank account.”*

As such, the Liquidator is bound to open a bank account for the purpose of liquidation of the CD. Any monies received by the liquidator, through realization of sale proceeds or otherwise, shall have to be deposited by the liquidator in the said bank account. Also, any amount that shall be distributed by the liquidator amongst the creditors of the CD, shall also have to be paid out of the Liquidation Bank Account as well.



- 4.5 The IBC, 2016 and the Liquidation Process Regulations, provide a complete code on as to how the creditors may file their claims, the admission and rejection of claims by the liquidator, sale of assets, realization of proceeds of sale and distribution of sale proceeds amongst the creditors.
- 4.6 Once liquidation in respect of any Corporate Debtor is initiated by this Adjudicating Authority, any creditor of such CD shall have to file their claims with the liquidator, in terms of the IBC and its regulations. Section 33(5) specifically bars any initiation of legal proceedings against the CD post initiation of liquidation proceedings.
- 4.7 Thereafter, the only entitlement of the creditors post initiation of liquidation, would be the amount they would receive in terms of the priority as provided under Section 53 of the Code.
- 4.8 In the present case, the Commercial Tax Department, Lucknow, has attempted to completely side step the procedure established by the Code, in as much as they have issued a notice to the Respondent Bank to mark a lien on the liquidation account of the CD, without having lodged a claim with the Liquidator in respect of dues of the CD.
- 4.9 Such action on the part of the Commercial Tax Department, Lucknow, and the subsequent act of the Respondent Bank in marking a lien over the said account is wholly unacceptable, as the same has the potential to place the entire liquidation process in a state of uncertainty and render it indefinite. In our considered opinion, upon commencement of liquidation proceedings, the only remedy available to a creditor is to lodge its claim before the Liquidator and receive payment in accordance with the waterfall mechanism prescribed under Section 53. Any parallel proceeding initiated by a creditor for recovery of money is impermissible under the Code. We rely upon the judgment of Hon'ble Supreme Court in *Sundaresh Bhatt, Liquidator of ABG Shipyard Vs. Central*



Board of Indirect Taxes and Customs, C.A. 7667 of 2021, whereby the Apex Court, albeit in the context of Customs Act, observed and held as follows:-

*“45. From the above discussion, we hold that the respondent could only initiate assessment or re-assessment of the duties and other levies. They cannot transgress such boundary and proceed to initiate recovery in violation of Sections 14 or 33(5) of the IBC. The interim resolution professional, resolution professional or the liquidator, as the case may be, has an obligation to ensure that assessment is legal and he has been provided with sufficient power to question any assessment, if he finds the same to be excessive.*

*46. There is another aspect of this case that needs to be highlighted to portray the inconsistency of the Customs Act vis-à-vis the IBC during the moratorium period. In the present case, the demand notice dated 11.07.2019 was issued by the respondent under Section 72 of the Customs Act, in clear breach of the moratorium imposed under Section 33(5) of the IBC. Issuing a notice under Section 72 of the Customs Act for non-payment of customs duty falls squarely within the ambit of initiating legal proceedings against a Corporate Debtor. Even under the liquidation process, the liquidator is given the responsibility to secure assets and goods of the Corporate Debtor under Section 35(1)(b) of IBC.*

*47. As laid down earlier, the Customs Act and IBC can be read in a harmonious manner wherein authorities under the Customs Act have a limited jurisdiction to determine the quantum of operational debt - in this case, the customs duty - in order to stake claim in terms of Section 53 of the IBC before the liquidator. However, the respondent does not have the power to execute its claim beyond the ambit of Section 53 of the IBC. Such harmonious construction would be in line with the ruling in Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta, (2021) 7 SCC 209, wherein a balance was struck by this Court between the jurisdiction of the NCLT under the IBC and the potential 32 encroachment on the legitimate jurisdiction of other authorities.*

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*54. On the basis of the above discussions, following are our conclusions:*

*i) Once moratorium is imposed in terms of Sections 14 or 33(5) of the IBC as the case may be, the respondent*



*authority only has a limited jurisdiction to assess/determine the quantum of customs duty and other levies. The respondent authority does not have the power to initiate recovery of dues by means of sale/confiscation, as provided under the Customs Act.*

*ii) After such assessment, the respondent authority has to submit its claims (concerning customs dues/operational debt) in terms of the procedure laid down, in strict compliance of the time periods prescribed under the IBC, before the adjudicating authority.*

*iii) In any case, the IRP/RP/Liquidator can immediately secure goods from the respondent authority to be dealt with appropriately, in terms of the IBC.”*

4.10 The notice dated 14<sup>th</sup> February, 2026, marking a lien of Rs. 9,70,340/- and further directing payment of the said amount via demand draft in respect of arrears of commercial tax owed by the CD, issued by the Commercial Tax Department, Lucknow amounts to initiation of recovery proceedings against the CD, which is impermissible under IBC, 2016 as discussed hereinabove. Thus, we find merit in the present application.

## 5. Order

5.1 In light of the aforesaid discussion, we hereby direct the Respondent Bank to remove the lien of Rs. 9,70,340 (Rupees Nine Lakhs Seventy Thousand Three Hundred and Forty only) marked on the liquidation account of the Corporate Debtor, bearing Account No. 922020050873716 maintained with Axis Bank, Sarat Bose Road Branch, Kolkata, with immediate effect.

5.2 We hereby further restrain the Respondent Bank from in any manner creating, continuing, or enforcing any lien, attachment, or encumbrance over the liquidation account of the CD during the pendency of the liquidation proceedings, except with prior leave of this Tribunal.

5.3 The Interlocutory Application being I.A. (I.B.) 1353/KB/2025 is hereby disposed of in accordance with the aforesaid directions, without there being any orders as to costs.



- 5.4 The parties are directed to act on the basis of the server copy of this Order, uploaded on the website of this Tribunal.
- 5.5 Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

(Rekha Kantilal Shah)

Member (Technical)

(Labh Singh)

Member (Judicial)

Order signed on the 21<sup>st</sup> day of April 2026.

H.T. (LRA)