

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.302

IA/1002(AHM)2025

in

C.P.(IB)/74(AHM)2024

Under Section Section 60(5) IBC r/w Rule 11 NCLT r/w Regulation 21A(2)(a) IBBI (Liquidation Process) Regulations, 2016

IN THE MATTER OF:

Ramesh Kumar Totla Liquidator of M/s Raghuvanshi CottonApplicant
Ginning and Ppressing Pvt. Ltd

V/sRespondent
State Bank of India Stressed Assets Management Branch

Order delivered on: 21/11/2025

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open Court, vide separate sheet.

Sdt-

SANJEEV SHARMA
MEMBER (TECHNICAL)

Sdt-

SHAMMI KHAN
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT- I, AHMEDABAD**

**IA No. 1002 of 2025
In
CP (IB) No. 74 of 2024**

(An application filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 r.w. Rule 11 of NCLT Rules, 2016 r.w. Regulation 21A(2)(a) read and regulation 2(ea) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 seeking appropriate directions against the Respondent.)

In the matter of:

**Ramesh Kumar Totla,
Liquidator of M/s Raghuvanshi Cotton
Ginning and Pressing Private Limited**

Having its Address at:
A-1/1007, Rudra Enclave,
Althan-Bhimrad Road,
Althan, Opposite Nest Orchid
Surat, Gujarat, 395007

.... Applicant

Versus

**State Bank of India,
Stressed Assets Management Branch,
Having its address at:
4th Floor, Old LHO Building,
Bhadra, Ahmedabad-380001
Email: team4samb.ahm@sbi.co.in**

.... Respondent

Order Pronounced on: 21.11.2025

C O R A M :

**SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)**

APPEARANCE:

For the Applicant : Mr. Arjun Sheth, Advocate a.w.
Ms. Kriti Kothari, Advocate
For the Respondent/SBI : Mr. Saurabh Soparkar, Sr. Advocate
a.w. Ms. Nitu Chaturvedi Advocate

ORDER **(Per: Bench)**

1. The present Interlocutory Application No.1002 of 2025 Vide Inward Diary No. E2148 is filed by the Liquidator in the main Company Petition under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 r.w. Rule 11 of NCLT Rules, 2016 r.w. Regulation 21A(2)(a) read and regulation 2(ea) of the IBBI (Liquidation Process) Regulations, 2016, seeking following reliefs:

- a. *Allow the present application;*
- b. *Direct the Respondent to pay the liquidation costs to the liquidator in compliance with Regulation 21A(2)(a) of the IBBI (Liquidation Process) Regulations 2016 in terms of paragraph 12(j) of the liquidation order dated 08.04.2025 as specifically mentioned at Annexure R before handing over the possession of the assets of the Corporate Debtor to the successful auction purchaser;*
- c. *Pass appropriate orders declaring that the security interest created by the Respondent over the property of the Corporate Debtor being land and building located at Survey No. 34, Movia Padharital,*

Padadhari, District-Rajkot-360110, Gujarat stands relinquished as a result of non-compliance of Regulation 21A(2)(A) of the IBBI (Liquidation Process) Regulations, 2016 and further declare that the auction dated 27.06.2025 conducted by the Respondent is illegal and bad in law;

- d. Pending hearing and final disposal of the present application, Your Lordships may be pleased to:*
- i. Grant status quo with respect to the auction conducted by the Respondent dated 27.06.2025 and direct the Respondent to not handover the possession of the assets of the Corporate Debtor being land and building located at Survey No. 34 Movia Padadharital, Padadhari, District-Rajkot-360110, Gujarat to the successful auction purchaser;*
 - ii. Direct the Respondent to provide the details of successful auction purchaser to the Applicant including a copy of the sale certificate*
- e. Pending hearing and disposal of the present application, your Lordships may be pleased to grant ex-parte ad interim relief in terms of clause (c) as stated above*
- f. Grant such further and other reliefs as this Adjudicating Authority may deem fit, just, and proper in the facts and circumstances of the case.*

2. The Corporate Insolvency Resolution Process (“CIRP”) against the Corporate Debtor, M/s Raghuvanshi Cotton Ginning & Pressing Private Limited, was initiated by this

Hon'ble Tribunal vide order dated 06.01.2025, subsequently, vide order dated 08.04.2025 passed in I.A. (Liquidation) No. 3 of 2025 in C.P. (IB) No. 74 of 2025, this Hon'ble Tribunal was pleased to initiate liquidation of the Corporate Debtor and appoint the Applicant as the liquidator. (Copy of the liquidation order dated 08.04.2025 is annexed as **Annexure A**).

- 2.1. Upon receipt of liquidation order on 08.04.2025, the Applicant issued a public announcement on 11.04.2025 in the Financial Express (English and Gujarati editions), inviting claims in accordance with Regulation 12 of the Liquidation Regulations. (Copy of the public announcement is annexed as **Annexure B**).
- 2.2. The Respondent state bank of India, filed its claim before the liquidator on 08.04.2025 in Form D, declaring a total claim of Rs. 173,72,45,512.80ps. and expressly refused to relinquish its security interest in favour of the liquidation estate as permitted under Section 52 of the Code. (Copy of the Form D is annexed as **Annexure C**)
- 2.3. The Corporate Debtor owns only one major asset, i.e. land and building situated at Survey No. 34, Movia Padadhari Taluka, District Rajkot-360110, Gujarat. The Respondent had taken possession of this property under the SARFAESI Act prior to the commencement of CIRP.

- 2.4. The Applicant convened the first SCC meeting on 15.04.2025, where the Respondent reiterated its decision not to relinquish its decision not to relinquish its security interest and declared its intent to realise the secured asset under SARFAESI. The SCC further ratified that all future expenses to be incurred by the liquidator shall form part of the liquidation cost. Minutes and voting results of the first SCC meeting are annexed as **(Annexure D)**.
- 2.5. After verification of claims, the SCC was formally constituted as per Regulation 31 & 31A of the liquidation Regulations. (Copy of SCC constitution report dated 07.06.2025 is annexed as **Annexure E**). The Respondent was not included in the SCC as it had opted not to relinquish its security interest.
- 2.6. The Respondent vide email dated 03.06.2025 forwarded a letter dated 31.05.2025, informing the liquidator of its intention to conduct an auction of the Corporate Debtor's asset on 27.06.2025. (Email dated 03.06.2025 is annexed as **Annexure F**).
- 2.7. On 06.06.2025, the liquidator issued an email requesting the Respondent to deposit Rs 88,24,500/- towards the liquidation cost including the liquidator's fee, as mandated under Regulation 21A(2)(a). A detailed bifurcation of expenses was also provided. Email dated 06.06.2025 is annexed as **(Annexure G)**.

- 2.8. Reminders for payment of liquidation costs was made since no payment was made, reminders were issued on: 12.06.2025 (**Annexure H**) and 24.06.2025 (**Annexure I**) calling upon the Respondent to remit liquidation cost within the mandated 90 day period ending on 07.07.2025.
- 2.9. Respondent, for the first time, replied on 24.06.2025, stating that expenses were under verification and it did not accept the Liquidator's fee as per Regulation 4(2)(b), citing the earlier CoC fee decision under Regulation 39D. (Copy of Respondent's email dated 24.06.2025 is annexed as **Annexure J**).
- 2.10. The second SCC meeting was held on 25.06.2025, where SCC approved the liquidator's fee under Regulation 4(2)(b) with 84.96% voting in favour. Minutes and voting results are annexed as (**Annexure K**).
- 2.11. On 02.07.2025, the applicant enquired about the status of the proposed auction. Email dated 02.07.2025 is annexed as (**Annexure L**).
- 2.12. On 04.07.2025, Respondent informed that the asset was auctioned on 27.06.2025 for Rs. 17,30,10,000/-, but declined to share details of the successful bidder. Email dated 04.07.2025 is annexed as (**Annexure M**).

- 2.13. The Respondent conducted the e-auction before expiry of 90-days (07.06.2025) and without depositing liquidation costs, in complete violation of Regulation 21A (2)(a).
- 2.14. Liquidator's detailed email dated 06.08.2025 (**Annexure N**) explaining the liquidation costs components. Respondent's reply dated 08.08.2025 (**Annexure O**) again refusing to pay fees and claiming "expenses under verification". Even the amount Respondent stated it was "willing to pay" was not remitted.
- 2.15. On 20.08.2025, Respondent informed that full sale consideration was received and the sale certificate had been issued. Email dated 20.08.2025 is annexed as (**Annexure P**). No liquidation costs were paid even at this stage.
- 2.16. On 25.08.2025, the Applicant informed Respondent that the sale was concluded in violation of Regulation 21A and requested details of purchaser and sale certificate, and requested that possession not be handed over. Email dated 25.08.2025 is annexed as (**Annexure Q**). The Respondent has not replied.
- 2.17. Till date, the Respondent has failed to remit the liquidation cost or liquidator's fee. Detailed bifurcation of liquidation costs is annexed as (**Annexure R**).

- 2.18. Respondent has neither shared the identity of the successful auction purchaser nor the sale certificate. The Applicant reserves the right to implead the purchaser once details are received.
- 2.19. The Respondent has auctioned the asset of the Corporate Debtor in violation of Regulation 21A (2) (a) read with regulation 2(ea) of the liquidation Regulations, despite repeated reminders.
- 2.20. The Hon'ble National Company Law Appellate Tribunal in the judgment of Shikshak Sahakari Bank Limited v. Mr. Jagdish Kumar Parulkar, Liquidator of Narendra Solvex Private Limited, Company Appeal (AT) (Insolvency) No. 2023 of 2024 was pleased to hold that the secured creditor is bound to pay the liquidation costs within the 90-day period as per Regulation 21A (2) of the Liquidation Regulations. A copy of the judgment is annexed hereto and marked as **(Annexure S)**
- 2.21. The Applicant also places reliance on the judgments passed by the Hon'ble National Company Law Appellate Tribunal in Small Industries Development Bank of India v. Shri Vijender Sharma, Company Appeal (AT) (Ins) No. 1027 of 2021 and State Bank of India v. Navjit Singh, Company Appeal (AT) (Ins) No. 151 of 2022 is annexed hereto and marked as **(Annexure T)**

3. In response to the above averments made by the Applicant a reply was filed by the Respondent – State Bank of India on 23.09.2025 vide Inward Diary No. D6475 thereby denying all the averments and making following submissions:

3.1. At the outset, the Respondent denies all averments made in the application except those specifically admitted. The reply is filed by the Authorised Officer, Shri Prakash Maurya, under authority letter dated 20.09.2025 (**Exhibit R-1**).

3.2. The Respondent submits that the present IA is based on false allegations seeking personal gain by the Liquidator. The Applicant has misinterpreted the provisions of the IBC, 2016 and is attempting to claim a fee far beyond what the CoC has already fixed under the mandatory framework of Regulation 39B, 39C and 39D.

3.3. The CIRP commenced on 06.01.2025 and SBI, being the sole CoC member with 100% voting share, resolved in the 1st (05.02.2025) and 2nd (23.02.2025) CoC meetings that the Corporate Debtor was not viable and that early liquidation be recommended due to:

- No machinery available (already sold under SARFAESI),
- Extremely high outstanding debt vs. asset value,
- Multiple failed auctions,

- Non-availability of financial statements since 2014,
- Non-cooperation of suspended management,
- No data available with respect to compliances being completed by the Corporate Debtors
- No employees or revival possibility.

3.4. In the 3rd CoC meeting on 01.03.2025, the CoC approved all resolutions under Regulation 39B, 39C, 39D and 39BA. Importantly, the CoC Fixed the fee of the Liquidator at Rs. 10,00,000 for the first six months, with an additional Rs. 5,00,000 only if an H1 bidder was brought by the Liquidator. It was further resolved that if assets are not sold in six months and are relinquished, the Liquidator would receive only 35% of the Schedule II fee.

3.5. The Adjudicating Authority, while passing the Liquidation Order dated 08.04.2025, has recorded the CoC's decision regarding the Liquidator's fee. Thus, the fee is already fixed and binding under Section 34(8) read with Regulation 4.

3.6. The sole secured asset—factory land—was eventually sold by the Respondent under SARFAESI Act within 90 days of liquidation. The Liquidator performed no work for this sale nor contributed to the realisation. The auction notice and sale certificate are filed as **Exhibit R-2**.

3.7. The Respondent further submits that prior to CIRP commencement i.e. 06.01.2025 the sole member of CoC SBI (State Bank of India) had auctioned the property of CD under SARFAESI Act 2002 the details are as under:-

Sr No.	Auction Details	Auction Price	Results
1.	Auctions Scheduled on 01.05.2023, 29.05.2023, 20.07.2023 and 07.09.2023 for factory land & building and P&M	Rs. 20.55Cr	Failed
2.	Auctions Scheduled on 20.11.2023 for factory land & building and P&M	Rs. 20.33 Cr	P&M sold at Rs 1.43 Cr
3.	Auctions scheduled on 12.02.2024 for factory land& building	Rs. 17.15 Cr	Failed
4.	Auctions scheduled on 26.11.2024 for factory land & building	Rs.17.92 Cr	Failed
5.	Auction notice dated 31.05.2025 property to be scheduled to be auction on 27.06.2025. After liquidation order dated 08.04.2025	Rs. 17.30 Cr	Successful

3.8. In the 1st SCC meeting dated 15.04.2025, the Respondent clearly stated that the security would not be relinquished and would be realised under SARFAESI. The Liquidator raised no objection to the CoC-approved fee at that time. The agenda was deferred by him with full knowledge that SBI would exit the SCC after non-relinquishment.

3.9. The Liquidator thereafter sought to re-fix his fee through the SCC, contrary to Regulation 39D, Regulation 4 and Regulation 21A. The SCC members, who do not contribute to liquidation cost, approved the agenda without being informed of the earlier CoC decision—amounting to suppression of material facts by the Liquidator.

3.10. The Respondent submits that the Liquidator is now demanding Rs. 85,54,500/-, which is wholly illegal, exorbitant, and contrary to:

- Section 34(8) of IBC,
- Regulation 39D of CIRP Regulations,
- Regulation 4 & Schedule II of Liquidation Regulations,
- Regulation 21A (consultation & good-faith obligation).

3.11. The Liquidator has misused an inadvertent reference in the liquidation order to claim Schedule-II fee, despite complete lack of work and despite CoC having already fixed his remuneration. The Liquidator has been repeatedly informed of SARFAESI enforcement and has been paid the entire CoC-approved fee of Rs. 10 lakhs + GST, as recorded even in his additional affidavit.

3.12. The Respondent submits that the Liquidator has not produced any evidence of progress in liquidation, such as:

- Attempt to auction any asset of CD,

- Exercise under Regulation 32 for sale as going concern,
- Filing of dissolution application,
- Compliance under Liquidation Regulations. His only activity is sending repeated emails demanding illegal fee.

3.13. The Liquidator's attempt to claim Schedule-II fee without any realisation/distribution through liquidation estate is contrary to the statutory mechanism. Realisation under SARFAESI cannot form basis of calculating Liquidator's fee.

3.14. The Respondent asserts that this IA is a conscious attempt for personal enrichment, filed only after SARFAESI auction succeeded, and is a misuse of the Tribunal's process to extract money from a public sector bank.

3.15. The judicial precedents cited by the Applicant are factually distinguishable and do not support the claim for Schedule-II fee in a case where:

- CoC already fixed the fee
- Assets were realised outside liquidation
- Liquidator performed no substantive work.

3.16. Therefore, the Respondent submits that the IA is devoid of merit, contrary to the IBC scheme, and deserves rejection with exemplary costs for abuse of process.

4. To the above averments made by Respondent, a rejoinder affidavit was filed by the Applicant on 08.10.2025 vide Inward Diary No.D6831 stating following submissions:

4.1. The Applicant, Shri Ramesh Kumar Totla, is the Liquidator appointed for M/s Raghuvanshi Cotton Ginning and Pressing Private Limited pursuant to the liquidation order dated 08.04.2025 passed in IA (Liquidation) No. 3 of 2025 in CP(IB) 74 of 2024.

4.2. The Applicant has filed the present proceedings under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, read with Rule 11 of the NCLT Rules, 2016, and Regulation 21A(2)(a) of the IBBI (Liquidation Process) Regulations, 2016, seeking directions to the Respondent Bank to pay the Liquidation Costs, which include the Liquidator's expenses and the Liquidator's fee.

4.3. The Applicant states that the application was necessitated as the Respondent Bank, though having conducted the sale of the secured assets of the Corporate Debtor, initially failed to hand over possession to the successful auction purchaser. The Applicant further submits that the said possession has subsequently been handed over during pendency of the Application, and a sale certificate was also issued and placed on record by the Respondent.

4.4. The Applicant submits that the only surviving relief in the present proceedings pertains to the payment of liquidation costs, which, in terms of Section 5(16) of the Code read with Regulation 2(ea) of the Liquidation Regulations, mandatorily include both:

- the expenses incurred by the Liquidator, and
- The fee payable to the Liquidator under Regulation 4 of the Liquidation Regulations.

4.5. The Applicant states that he has incurred an amount of ₹1,14,948/- towards liquidation expenses, details of which are contained at Annexure R (Pg. 139) of the Application. The Applicant has annexed all supporting bills and invoices both in the Application as well as in the present Rejoinder (Annexure A), and asserts that the invoices were repeatedly sent to the Respondent Bank, including by email dated 10.09.2025, and through the Google Drive link forwarded along with the further affidavit submitted to the Bank.

4.6. The Applicant asserts that the expenses have already been ratified and approved by the Stakeholders' Consultation Committee (SCC) in its second meeting, and therefore the Respondent, having elected to realise its security interest, was duty-bound to honour the expenses before proceeding with the sale. The Applicant further states that the Respondent has not dealt with the issue of non-payment of expenses in any meaningful manner in its reply affidavit.

- 4.7. The Applicant submits that the Liquidator's fee of ₹85,54,875/- has been computed strictly in accordance with Regulation 4(2)(b) of the Liquidation Regulations and in conformity with the categorical directions contained in paragraph 12(j) of the liquidation order dated 08.04.2025, which mandates that the Liquidator shall charge fee "in proportion to the value of the liquidation estate assets as specified by the IBBI".
- 4.8. The Applicant submits that the Respondent Bank has wrongly relied upon the fee fixed by the CoC in the third CoC meeting under Regulation 39D of the CIRP Regulations, wherein the CoC had approved a fee of ₹10 lakhs for the first six months. The Applicant clarifies that Regulation 39D was applicable only to the erstwhile Resolution Professional, not the present Liquidator who was appointed by the Hon'ble Tribunal under Section 33(4) of the Code. Hence, the CoC-approved fee has no applicability post-liquidation.
- 4.9. The Applicant submits that under Regulation 21A(2)(a) of the Liquidation Regulations, a secured creditor who elects to realise its security interest is mandatorily obliged to pay the liquidation costs, including the estimated amount determined by the Liquidator, within 90 days, in accordance with Section 53(1)(a) and 53(1)(b)(i) of the Code. Even if the exact amount is under

verification, the secured creditor must pay the estimated portion, subject to later reconciliation.

- 4.10. The Applicant submits that the Respondent Bank, despite participating in the SCC, failed to comply with the statutory mandate under Regulation 21A(2)(a). The Respondent conducted the auction on 27.06.2025, while the 90-day statutory period expired on 07.07.2025, but did not make payment of the liquidation costs at any stage prior to conducting the sale.
- 4.11. The Applicant submits that after filing of the present Application, the Respondent Bank made a part-payment of ₹10,00,000/- towards the Liquidator's fee; however, no amount has been paid towards the liquidation expenses of ₹1,14,948/-.
- 4.12. The Applicant states that the Respondent has taken the untenable plea that the Hon'ble Adjudicating Authority committed an "inadvertent error" in directing the Liquidator to charge fee in proportion to the liquidation estate value. The Applicant asserts that such a submission is not only unsustainable but amounts to an attempt to avoid compliance with a judicial order. If the Respondent believed there was an error, it ought to have preferred an appeal or sought clarification but could not, in law, refuse compliance.

4.13. The Applicant has relied on the judgment of the Hon'ble NCLAT in Shikshak Sahakari Bank Ltd. v. Jagdish Kumar Parulkar, Liquidator of Narendra Solvex Pvt. Ltd., Company Appeal (AT) (Insolvency) No. 2023 of 2024, wherein the Appellate Tribunal has held that:

37. In brief, with respect to the Secured Financial Creditor, the situation is clearly enumerated in Regulation 21-A(2)(a), which is applicable in this case. The liquidator fee is also prescribed under Regulation 4. Regulation 4(1) and 4(1A) provides primacy to CoC and consultation committee. The Respondent's claim that the liquidator is entitled for a fee under Regulation 4(2)(b) only when he has realised or distributed any amount is not tenable in the light of Regulation 21 A. We do not find any infirmity in the orders of the Adjudicating Authority. The appeal is therefore, dismissed. All related IA's pending if any are closed. No order as to costs.

"Further, in the facts of the case, the Respondent/Liquidator is taking care of the realisation of the assets through the secured financial creditor and for that reason, he must coordinate for all the activities and it is his overall responsibility to take care of the realisation. In such a situation, as argued by the Appellant, the clarification provided under sub-regulation 2(b) may not be helpful for the Appellant."

- Regulation 4 must be read harmoniously with Regulation 21A;
- The Liquidator is entitled to fee even where the secured creditor realises the assets independently;

- Actual realisation or distribution by the Liquidator is not a precondition for entitlement to fee; and
- Secured creditors cannot refuse to pay liquidation costs based on internal CoC decisions.

4.14. The Applicant states that the Respondent has made incorrect statements on oath, including false assertions regarding non-receipt of invoices and the allegation of error in the Tribunal's order. According to the Applicant, the Respondent has acted in a high-handed manner, conducted the auction arbitrarily, and ignored the mandate of the liquidation regulations.

4.15. The Applicant submits that the Respondent has not paid any amount towards liquidation expenses, and only a partial fee payment of ₹10 lakhs was made post-filing of the Application. The Applicant reaffirms that he is entitled to the entire ₹85,54,875/- towards Liquidator's fee and ₹1,14,948/- towards liquidation expenses, less the amount already paid.

5. The appellant filed their written submissions on 06.11.2025 vide Inward Diary No. D7404, the same has been taken on record by this Hon'ble Tribunal. The Applicant has relied on following judgements:

1. Shikshak Sahakari Bank Limited v. Mr. Jagdish Kumar Parulkar, Liquidator of Narendra Solvex Private Limited, Company Appeal (AT) (Insolvency) No. 2023 of 2024

2. Small Industries Development Bank of India v. Shri Vijender Sharma, Company Appeal (AT)(Ins)No. 1027 of 2021

3. State Bank of India v. Navjit Singh, Company Appeal (AT)(Ins) No. 151 of 2022

6. The Respondent have also filed their written submissions on 06.11.2025 vide Inward Diary No. D7376, the same has been taken on record. The Respondent have relied on the judgement:

1. Bhupesh Gupta Ex. Liquidator v/s Mr. Ravindra Kumar Goel Liquidator

7. We have heard the counsel for the applicants and the Respondent and have perused the material on record.

8. Observation and Directions of this Tribunal: -

8.1. The Corporate Debtor was admitted into CIRP on 06.01.2025, and due to absence of records, non-cooperation, earlier SARFAESI sale of assets, and no prospect of revival, and for various other reasons including the Corporate Debtor was not viable, no machinery available, no employees, the CoC resolved for early liquidation.

8.2. The Adjudicating Authority passed a liquidation order on 08.04.2025, appointing the Applicant as Liquidator. Paragraph 12 (j) concerning liquidator fee reads as,

“ The liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and same shall be paid to the Liquidator from the proceeds of the liquidation estate under section 53 of the Code.”

- 8.3. Annexure R of the petition provides details of liquidation cost of Rs. 86,69,823 raised by the Liquidator on the Respondent, State Bank of India. This comprises of liquidation fees of Rs 85,54,875 and expenses incurred of Rs 1,14,948. Liquidation fee is computed based on percentage of realised value of the assets and distributed amount. Expenses comprises of advertising expenses, ROC Compliance, Advocate fees, travelling and conveyance and other expenses.
- 8.4. Based on the prayers, the core issue for consideration is the payment of liquidation cost by the Respondent. We narrate relevant facts:
- Liquidator was appointed vide order of 08.04.2025 passed by this Adjudicating Authority.
 - The Respondent, State Bank of India, in the first meeting of the Stakeholders Consultation Committee held on 15.04.2025 apprised that it does not wish to relinquish its security interest and seeks to realise its security interest as per the provisions of SARFAESI

Act. This meeting was attended by the liquidator, SBI, and State Tax Officer.

- Item No. 7 of the minutes of the above meeting noted that in the 3rd meeting of the CoC, it was discussed that the secured assets of the company were not proposed to be relinquished by SBI. Instead, the assets were proposed to be sold under the SRAFAESI Act. Accordingly, it was proposed that a fee of liquidator of Rs 10.00 lakhs would be payable for the first six months. In that meeting only SBI had the voting power and resolution was adopted with 100% votes.
- State Bank of India filed its claim in Form D vide letter of 08.04.2025 for Rs 173,72,45,512.80. Item no. 8 of the Form required details of any security held, the value of the security, and the date it was given. The Bank provided this information in Annexure II along with the Form. In column 8A (Whether Security Interest Relinquished), the Form notes **“NO”**.
- The Applicant has submitted that the CD owns only one major asset and the Respondent had taken possession of the property under SARFAESI Act prior to the commencement of CIRP.
- Page 92 of the Petition notes that since the secured creditor has not relinquished its security interest

under section 52, they were not eligible to be part of the Stakeholders Consultation Committee.

- Secured assets were auctioned on 27.06.2025 for Rs. 17,30,10,000. These assets were sold within 90 days of liquidation. However, the Petitioner claimed that information on the successful bidder was not shared.
- Respondent paid Rs. 10,00,000 to the liquidator on 03.09.2025.

9. The Applicant claims that the Respondent-state Bank of India, having elected to realise its security interests under Section 52 of the Code, was under a statutory obligation to comply with Regulation 21A(2)(a) of the IBBI (Liquidation Process) Regulations, 2016 by paying its share of liquidation costs, including the liquidator's fee, within 90 days of the liquidation commencement date and prior to effecting sale of the secured assets.

10. Keeping above facts in mind and, we now refer to the relevant provisions of law and Regulations to decide the issue.

11. Regulation 39D of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 deals with the fee of the Liquidator.

39D. While approving a resolution plan under section 30 or deciding to liquidate the corporate debtor under section 33, the committee may, in consultation with the resolution professional, fix the fee payable to the liquidator, if an order for liquidation is passed under section 33, for –

- (a) The period, if any, used for compromise or arrangement under section 230 of the Companies Act, 2013; 2[and]
- (b) Deleted.
- (c) The balance period of liquidation.]

12. In the present case, based the above Regulation (39D), the CoC (which comprised of SBI as only member) had fixed fee of the Liquidator at Rs 10,00,000 for the first six months, with an additional Rs 5,00,000 only if an H1 bidder was brought by the Liquidator. It was further resolved that if assets are not sold within six months and are relinquished, the Liquidator would receive only 35% of the Schedule II Fee. There is no dispute that the secured assets were sold by the Respondent within six months of the commencement of liquidation without any assistance of the liquidator.

13. Section 5(16) of the IBC, 2016 defines liquidation cost as given below:

“Liquidation cost” means any cost incurred by the liquidator during the period of liquidation subject to such regulations, as may be specified by the Board;

14. Regulation 2(1) (ea) of the IBBI (Liquidation Process) Regulations, defines liquidation cost which include fee payable to the liquidator under regulation 4.

15. Regulation 4 of the IBBI (Liquidation Process) Regulations, 2016 reads as below:

“Liquidator’s fee.

(1) The fee payable to the liquidator shall be in accordance with the decision taken by the committee of creditors under regulation 39D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

(1A) Where no fee has been fixed under sub-regulation (1), the consultation committee may fix the fee of the liquidator in its first meeting.

(2) In cases other than those covered under sub-regulation (1), the liquidator shall be entitled to a fee- (a) at the same rate as the resolution professional was entitled to during the corporate insolvency resolution process, for the period of compromise or arrangement under section 230 of the Companies Act, 2013 (18 of 2013); and (b) as a percentage of the amount realised net of other liquidation costs, and of the amount distributed, for the balance period of liquidation, as under:

Amount of Realisation/ Distribution(In rupees)	Percentage of fee on the amount realised/distributed		
	in the first six months	In the next six months	thereafter
<i>Amount of Realisation (exclusive of liquidation costs)</i>			
On the first 1 crore	5.00	3.75	1.88
On the next 9 crore	3.75	2.80	1.41
On the next 40 crore	2.50	1.88	0.94
On the next 50 crore	1.25	0.94	0.51
On further sums realized	0.25	0.19	0.10
<i>Amount Distributed to Stakeholders</i>			
On the first 1 crore	2.50	1.88	0.94
On the next 9 crore	1.88	1.40	0.71
On the next 40 crore	1.25	0.94	0.47
On the next 50 crore	0.63	0.48	0.25
On further sums distributed	0.13	0.10	0.05

(3) Where the fee is payable under clause (b) of sub-regulation (2), the liquidator shall be entitled to receive half of the fee payable on realisation only after such realised amount is distributed. Clarification: Regulation 4 of these regulations, as it stood before the commencement of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019 shall continue to be applicable in relation to the liquidation processes already commenced before the coming into force of the said amendment Regulations.”.

16. Therefore, in view of the provisions of Regulation 4 as noted above, the fee payable to the liquidator would be as decided by the CoC as required by Regulation 39D of the IBBI (Insolvency Resolution Process for Corporate Persons), Regulations, 2016. This overrides sub-regulation (2) unless

no CoC decision exists, per the hierarchy in Regulation 4(1). This fee was approved as Rs 10 lakhs.

- 17.** The liquidator is relying on the order of this Tribunal dated 08.04.2025. In paragraph 12 (j) of the liquidation order as it was noted that, “ *The liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and same shall be paid to the Liquidator from the proceeds of the liquidation estate under section 53 of the Code.*” It is stated that this paragraph in the order corresponds to sub-sections 8 and 9 of section 34 of the IBC, 2016.
- 18.** The Liquidator claims that the fee computation shall be based on Regulation 4 (2). It is noted that paragraph 2 of Regulation 4 applies only if paragraph 1 and 1A has no application in the case. As discussed above, in this case, provisions of paragraph 1 apply, and this excludes application of paragraph 2. Otherwise, also fee computation as per paragraph 2 is computed as a percentage of the amount realised and amount distributed to the stakeholders. In the present case, the liquidator has worked

out its fee based on the sale price of the asset sold by the SBI.

19. We refer to section 36 of the IBC, 2016 that describes what constitute liquidation estate. Liquidation estate includes any asset of the corporate debtor in respect of which a secured creditor has relinquished security interest (section 36 (3)(g)). Conversely, any assets of the corporate debtor in respect of which a secured creditor has not relinquished security interest would not be part of the liquidation estate. This exclusion is subject to Regulation 21A(3) of the Liquidation Regulations, which presumes the asset forms part of the estate if the secured creditor fails to comply with payment obligations under sub-regulation (2); however, timely intimation under sub-regulation (1) mitigates immediate presumption.

20. In the present case, the SBI/Respondent has not relinquished security interest on the asset and has sold itself without any knowledge to or assistance of the Corporate Debtor/Liquidator. This asset was not part of the liquidation estate and therefore would not be counted for

the purpose of computation of fee even as per Regulation 4 (2) of the IBBI (Liquidation Process), Regulations.

21. We have considered all the authorities cited by the liquidator and based on the specific facts of the case; these decisions are distinguished on facts.
22. The Hon'ble NCLAT, in ***Bhupesh Gupta Ex Liquidator v. Mr. Ravinder Kumar Goel Liquidator, Company Appeal 566 of 2025*** held that where the CoC has validly determined the Liquidator's fee under Regulation 39D, such decision will ordinarily prevail, unless the Adjudicating Authority has taken a different view in the liquidation order.
23. Therefore, we hold that the liquidator is entitled to fee as was decided by the CoC as per Regulation 39 D of the IBBI (Insolvency Resolution Process for Corporate Persons), Regulations 2016. Otherwise, also the liquidator has no role in the sale of asset by the SBI under the SARFAESI Act which was not part of the liquidation estate. The SBI informed the sale value to the liquidator due to persistence queries raised by the liquidator. The liquidator has neither performed any functions, nor used any of its assets, nor

assumed any risk regarding the sale and realisation of asset which was not part of the liquidation estate. Therefore, liquidator is not entitled to any fee for this transaction.

- 24.** Paragraph 12 (j) of the liquidation order refers to the fee based on the value of liquidation estate assets. The asset sold by the SBI was the only asset of the Corporate Debtor. The liquidator has not provided information on any other asset which has been sold by it under the liquidation process. SBI claims that the liquidator has also not provided any information to the SBI about the progress of liquidation and his only activity has been to send repeated emails demanding illegal fee.
- 25.** Therefore, the value of liquidation assets in this case is NIL and no realisation/distribution has taken place through liquidation estate. Therefore, if the provisions of paragraph 12 (j) are applied then the fee payable to the liquidator will be zero. As noted above, these facts of SBI not relinquishing its security interest and a fee of 10 lakhs was decided as per provisions of Regulation 35 D, discussed above, and therefore fee of the liquidator is Rs 10 lakhs, and which has

already paid by SBI. Our decision is consistent with the liquidation order of 08.04.2025.

- 26.** The Petitioner has sought direction to the Respondent to comply with the provisions of Regulation 21A (2) (a) of the IBBI (Liquidation Process) Regulations, 2016. In this case, SBI is not the member of the SCC, still it is to pay the amount payable under Section 53 (1)(a) [the liquidation cost in full] and therefore the SBI is liable to pay the liquidation cost comprising of fee to the liquidator (Rs 10 lakhs) and liquidation process expenses of Rs 1,14,948, if not already paid.
- 27.** We note that the Applicant has contended that Regulation 39D was applicable to the erstwhile Resolution Professional, not to the present Liquidator who was appointed by the Hon'ble Tribunal and hence the CoC approved fee has no applicability post-liquidation. We do not find any support to this claim. The fee can not be different if the RP continues to be liquidator, or a new liquidator is appointed. The decision of the CoC as per Regulation 35D was not based on any negotiations with then Resolution Professional and it was

not a contract between the CoC and the RP, but decision was about the liquidation fee. This argument is rejected.

- 28.** The prayer (c) regarding declaring that the security interest created by the Respondent over the property of the Corporate Debtor stands relinquished as a result of non-compliance of Regulation 21 A (2)(A) of the IBBI (Liquidation Process) Regulations, 2016 and declaring that the auction dated 27.06.2025 conducted by the Respondent is illegal and bad in law has been examined by us. Regulation 21 A (1) requires a secured creditor to inform the liquidator of its decision to relinquish its security interest to the liquidation estate or realise its security interest, as the case may be, in Form C or Form D of Schedule II. The liquidator had issued public announcement inviting claims from the creditors of Corporate Debtor on 11.04.2025.
- 29.** The Respondent/ SBI submitted its claim in Form D on 08.05.2025. The submission of Form D was within 30 days of the liquidation order of 08.04.2025. The SBI during the first SCC meeting on 15.04.2025 had also conveyed its decision not to relinquish its security interest and had

declared its intent to realise the secured asset under SARFAESI. We fail to understand the applicability of Regulation 21 A (1) as claimed by the liquidator and therefore this prayer is rejected.

30. In prayer (d), the liquidator seeks relief for granting status quo with respect to the auction conducted by the Respondent dated 27.06.2025 and direct the Respondent to not handover the possession of the assets of the Corporate Debtor to the successful auction purchaser. We have carefully examined this prayer and hold that there is no ground with the liquidator to seek this prayer.
31. The Respondent/SBI is directed to pay liquidation expenses of Rs 1,14,948, if not paid till date of this order.
32. Henceforth, **IA No. 1002 of 2025** in CP (IB) No. 74 of 2024 is partly **allowed** and **disposed of** accordingly.

-Sd-

SANJEEV SHARMA
MEMBER(TECHNICAL)

Aditi Jain/LRA

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)