



**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**KOCHI BENCH**

**Company Appeal (IBC)/07/KOB/2025**

**in**

**IBA/37/KOB/2020**

*(Under Section 42 of Insolvency and  
Bankruptcy Code, 2016)*

***In the matter of:***

***Tahsildar, Kanayannur Taluk Vs. Vibin  
Vincent, Liquidator***

**Memo of Parties:**

**Tahsildar**

Kanayannur Taluk, Taluk Office,  
Kanayannur

**...Appellant**

**-Vs-**

**VIBIN VINCENT,**

Liquidator of M/s Koyenco Autos,  
Chakiath House, Elavoor P.O.,  
Angamaly, Ernakulam-683 572

**...Respondent**

**Order delivered on: 18.09.2025**

***Coram:***

**HON'BLE MEMBER (JUDICIAL) : SHRI. VINAY GOEL**  
**HON'BLE MEMBER(TECHNICAL) : SMT. MADHU SINHA**



***Appearances:***

For the Appellant : Mr Bimal K Nath,  
Senior Government Pleader  
For the Respondent : Mr AC Venugopal, Advocate

**ORDER**

**Per Coram:**

1. The present Appeal has been filed by Tahsildar, Kanayannur Taluk, a statutory authority under the State of Kerala, under Section 42 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “Code”), seeking the following reliefs:
  - a) *To issue direction to the respondent/Liquidator to accept Annexure A5 claim submitted by the Appellant in the interest of justice.*
  - b) *To pass any other appropriate order or direction to meet out justice.*
2. **Brief facts as stated by the Appellant in the Company Appeal:**
  - a) The Village Officer, Maradu, intimated the Appellant about a commercial building by Mr. P.P. Koya, Keyenco Autos Private Limited ie, the Corporate Debtor herein, with a plinth area of 17,652.02 M<sup>2</sup>. The Appellant, on 24.03.2017, issued a notice under Section 7(3) of the Kerala Building Tax Act, 1975, to the builder. Thereafter, the Charge Officer conducted a site inspection and confirmed that the building had been constructed and completed in accordance with the approved plan, was being used for commercial purposes, and that assessment could be made based on the



occupancy dated 26.06.2014. Relying on this report, the Appellant passed an assessment order imposing building tax of Rs. 63,00,000/- under Section 5 of the Kerala Building Tax Act, 1975.

- b) Aggrieved by this assessment order, the Respondent preferred an appeal before the Revenue Divisional Officer, Fort Kochi, after remitting Rs. 15,75,000/- towards the first instalment of tax. The Respondent argued that the building consisted of 95 separate units, 54 of which had been sold, and sought separate assessments for each unit. However, under Section 2(c) and Explanation 2 of the Kerala Building Tax Act, 1975, only flats or apartments qualify for separate assessment. As the occupancy certificate reflected the Respondent as the sole owner of the building, the appeal was rejected by order dated 03.06.2019. Challenging this order, the Respondent filed W.P.(C) No.22559/2019 before the Hon'ble High Court of Kerala, which was disposed of on 07.11.2019, granting liberty to file a revision before the Revisional Authority. The District Collector, upon hearing the matter, held that the building was used for commercial purposes and that Explanation 2 to Section 2(c) applies only to flats or apartments jointly constructed by different persons. Since the Respondent's claim for separate assessment of a commercial building was not supported under the statutory scheme, the revision was rejected by order dated 24.06.2020.
- c) The Respondent thereafter approached the Hon'ble High Court again by filing W.P.(C) No.17050/2020, which is presently pending consideration. Meanwhile, as per the affidavit filed in I.A. No.1/2025, it has been brought to notice that the Respondent



company has been placed under liquidation with effect from 04.11.2022.

- d) The total amount due from the Respondent has been calculated at Rs. 70,98,526/-, inclusive of interest up to April 2025. On becoming aware of the liquidation proceedings, the Appellant filed its claim in Form C before the Liquidator on 08.04.2025. However, the Liquidator rejected the claim on 09.04.2025 solely on the ground of delay.
- e) The Appellant stated that the Respondent has not disputed the tax assessment orders forming the basis of the Appellant's claim. Since the Corporate Debtor was admitted into CIRP on 25.01.2023, these liabilities would have been reflected in its audited financial statements and should have been taken note of by the IRP/RP and subsequently by the Liquidator.
- f) Further added that the claim of the Appellant is legally sustainable and the delay of 944 days in filing the claim was neither wilful nor deliberate but arose due to the reasons narrated earlier.

**3. The liquidator filed the reply and stated as follows:**

- a) The Respondent denied the allegation that the Corporate Debtor had constructed a commercial building with a plinth area of 17,652.02 M<sup>2</sup>, by stating that the construction was undertaken by Hilite Builder Private Limited under a Joint Venture Agreement with the Corporate Debtor. Under the agreement, the land belonged to the Corporate Debtor, but construction was carried out by Hilite Builder Private Limited, and the Corporate Debtor



was allotted only 29,500 sq. ft. of commercial space. Consequently, any liability of the Corporate Debtor for building tax, if at all, would be limited to its proportionate share, not the entire building as claimed by the Appellant.

- b) Against the assessment order, the Corporate Debtor filed an appeal before the Revenue Divisional Officer, which was dismissed. Thereafter, it filed W.P.(C) No.22559/2019 before the Hon'ble High Court of Kerala, which directed the Corporate Debtor to seek revision. Pursuant to this, a revision petition was filed before the District Collector and rejected by order dated 24.06.2020. Aggrieved, the Corporate Debtor filed W.P.(C) No.17050/2020 before the Hon'ble High Court, wherein the operation of the order dated 24.06.2020 has been stayed. The writ petition remains pending, and the Respondent/Liquidator has apprised the Court of the liquidation proceedings and sought appropriate directions.
- c) The CIRP of the Corporate Debtor commenced on 06.10.2021 by order of this Tribunal in IBA/37/KOB/2020, appointing the Respondent as Resolution Professional. As no resolution plan was received, the CoC resolved for liquidation, and this Tribunal, by order dated 04.11.2022, appointed the Respondent as Liquidator.
- d) Immediately upon commencement of liquidation, and in compliance with Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016, the Respondent issued a Public Announcement in Business Line and Deepika (All-Kerala editions) on 11.11.2022,



- inviting stakeholders to submit or update claims within 30 days, with the last date fixed as 09.12.2022.
- e) The Appellant failed to submit any claim within the statutory period despite wide publication of the public announcement and has sought to file its claim after an inordinate delay of 944 days. The rejection of the claim is in strict accordance with the IBC framework and the Liquidation Process Regulations.
- f) Under the IBBI (Liquidation Process) Regulations, 2016, the Liquidator has no authority to admit claims filed beyond the prescribed timelines. Notably, the Appellant did not submit any claim during the CIRP period.
- g) As per Regulation 31(1) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2017, the Liquidator is required to prepare and file the list of stakeholders with the Adjudicating Authority within 45 days from the last date of receipt of claims. Regulation 31(3) provides that once such a list has been filed, it cannot be revised except with the leave or direction of the Adjudicating Authority. As the list of stakeholders has already been filed with the Tribunal, the Liquidator is not in a position to admit the Appellant's belated claim.
- h) The Corporate Debtor's assets consisted of:
- (i) *26.67 ares of land and building, including plant and machinery forming part of the BMW showroom, situated at Sy. No. 14/3, 26/17 and 26/18 in Block No. 13, Thandapper No. 7365, Ernakulam District, Maradu Sub District, Kanayannur Taluk;*



*(ii) 29,500 sq. ft. of commercial office space with cafeteria and proportionate common areas and parking in the Hi-Lite Platino commercial building.*

- i) As per the provisions of the Code, both these properties were auctioned and successfully sold, and the proceeds were distributed as per Section 53 of the Code. During liquidation, this Tribunal had also allowed I.A. (IBC)/182/KOB/2022 under Section 43(1) r/w 44 of the IBC, and I.A. (IBC)/183/KOB/2022 under Section 66 of the IBC, directing the suspended directors to contribute amounts on account of preferential and fraudulent transactions. The appeals filed by the suspended directors before the Hon'ble NCLAT and the Hon'ble Supreme Court were dismissed.
- j) Subsequently, the Respondent/Liquidator initiated contempt proceedings to recover such amounts, which were classified as Not Readily Realisable Assets (NRRA). This Tribunal, vide order dated 26.03.2025 in I.A. (IBC)/38/KOB/2025, permitted the assignment of NRRA to Adv. Vipin P. Varghese under Regulation 37A of the Liquidation Regulations, upon upfront payment of Rs 1 Crore. The said assignment has now been completed after receiving Rs 1,00,22,093/- (including Interest), and the entire amount received by the sale of NRRA has been distributed in accordance with Section 53 of the Code. Following this, the contempt petitions were withdrawn.
- k) Now the entire liquidation estate has been realised and distributed to stakeholders strictly in terms of Section 53 of the Code. The liquidation account of the Corporate Debtor has also been closed,



and the Respondent/Liquidator is in the process of filing an application for dissolution.

- l) Further stated that, if at this advanced stage, the belated claim of the Appellant is admitted, it would necessitate reconstitution of the Stakeholders' Consultation Committee under Regulation 31A, and further applications before this Tribunal, thereby causing unwarranted delay in completion of the liquidation process. The extended liquidation period ends on 28.10.2025, beyond which the Liquidator would be compelled to seek further extension. As the liquidation estate already stands fully realised and distributed, even if the claim is admitted now, the Appellant will not receive any distribution.

**Analysis and findings:**

4. We have heard the learned counsels for both parties and perused the materials available on record. It is the case of the Appellant that they had preferred a claim before the Respondent/Liquidator in Form C, but the same was rejected on the ground of delay of 944 days. It is not in dispute that the Appellant is the Statutory authority claiming building tax dues based on assessment orders passed under the Kerala Building Tax Act, 1975. It is also not in dispute that the assessment orders had been challenged by the Corporate Debtor before the Hon'ble High Court of Kerala and the said writ petitions are still pending consideration. Hence, the existence of tax liability itself is under judicial scrutiny before the appropriate forum.



5. It is further an admitted position that the CIRP of the Corporate Debtor commenced on 06.10.2021 and that liquidation was ordered on 04.11.2022. In compliance with Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016, the Respondent issued a public announcement on 11.11.2022 in widely circulated newspapers, inviting claims up to 09.12.2022. The Appellant did not submit any claim during the CIRP nor within the statutory period during liquidation.
6. The IBC, read with the Liquidation Process Regulations, does not vest any discretion upon the Liquidator to entertain claims submitted beyond the prescribed period. The Liquidator is bound by law to reject claims that are not filed within the timelines. In fact, the Appellant itself admits that the delay runs to 944 days.
7. More importantly, the liquidation estate of the Corporate Debtor has already been fully realised and distributed among stakeholders strictly in accordance with Section 53 of the Code. The record shows that the properties of the Corporate Debtor were sold in auction, certain avoidance applications under Sections 43 and 66 of the Code were successfully pursued, and even the Not Readily Realisable Assets were assigned under Regulation 37A. The proceeds from all these transactions have been received and distributed, and the liquidation account has now been closed. The Liquidator is in the process of moving for the dissolution of the Corporate Debtor.
8. The Hon'ble NCLAT, in *M/s Shiv Shakti Inter Globe Exports Private Limited v. M/s KTC Foods Private Limited*, Company Appeal (AT) (Ins.)



No. 650 of 2020, considered an appeal against the Adjudicating Authority's refusal to extinguish the remaining unpaid liabilities of the Corporate Debtor after distribution of sale proceeds as a going concern in accordance with Section 53 of the IBC. It was observed and held as under:

*“21. Adverting to the contention of the Learned Counsel for the Appellant that the Adjudicating Authority has erred in denying the sale of the ‘Corporate Debtor’ as a ‘going concern’ to the Appellant without including any contingent liabilities, we hold that it is a settled law that when the sale proceeds of a ‘Corporate Debtor’ are duly distributed in the Order of priority and in the manner prescribed under Section 53 of the Code, claims of any other Creditor cannot be entertained contrary to the provisions entailed under Section 53; subsequent to the distribution of sale proceeds under Section 53 no other entity including any Government entity can claim any past unpaid or outstanding dues against the Appellant who has purchased the ‘Corporate Debtor Company’ as a ‘going concern’. It is significant to mention that the second Respondent/Liquidator has specifically submitted that even these claims by the Uttar Haryana Bijili Vitran Nigam were not submitted in the prescribed form either during the CIRP Process or at the Liquidation stage. We are of the considered view that at this stage subsequent to the sale of the ‘Corporate Debtor Company’ as a ‘going concern’, these claims cannot be foisted upon the Appellant. The scope and objective of the Code is to extinguish all claims specifically the ones which were not even made during the CIRP or in the Liquidation stage, to aid the purchaser of the Company as a ‘going concern’ to start on a ‘clean slate’. The Hon’ble Supreme Court in ‘Ghanshyam Mishra & Sons Pvt. Ltd.’ Vs. ‘Edelweiss Asset Reconstruction Company Ltd. & Ors.’, Civil Appeal No. 8129 of 2019 and in ‘CoC of Essar Steel India Ltd.’ Vs. ‘Satish Gupta & Ors.’ (2020) 8 SCC 531 has laid down the proposition that the purchaser of the Company even in the Liquidation stage cannot be burdened with past liabilities when it is not mentioned in the ‘Sale Notice’.*

9. It is true that in certain cases, delay in submission of claims has been condoned by this Adjudicating Authority, on the rationale that the liquidation process had not yet concluded and distribution of assets



was still pending. In such circumstances, the Adjudicating Authority, in the interest of justice, may permit consideration of a belated claim if no prejudice would thereby be caused to the liquidation process or to the interests of other stakeholders.

10. There cannot be a straight-jacket formula to deal with such matters, as each case must be decided on its own merits. In the present case, allowing the prayer would adversely affect the interests of other stakeholders and would be contrary to the spirit and object of the IBC. A creditor who files its claim within the prescribed time can insist for its admission as a matter of right, whereas a creditor who fails to do so within the permissible period cannot later claim such right with the same intensity. By its own conduct, the creditor has placed itself under a zone where discretion will prevail. The strict timelines are the very essence of an effective and successful resolution process.
11. In the present case, the liquidation estate has already been fully realised, the proceeds distributed strictly in accordance with Section 53 of the Code, and the liquidation account itself has been closed. It is also relevant to note that the very tax liability forming the basis of the Appellant's claim is still under challenge before the Hon'ble High Court of Kerala, and has not attained finality. In these circumstances, there is no reason to reopen the liquidation process for a liability that is still uncertain and not crystallised
12. In view of the above, **Company Appeal (IBC)/07/KOB/2025** is, therefore, **dismissed** and disposed of accordingly.



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13. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Learned Counsels for information and for taking necessary steps.
14. Let the certified copy of the order be issued upon compliance with the requisite formalities.
15. File be consigned to records.

**Sd /-**

**MADHU SINHA**  
**(MEMBER TECHNICAL)**

**Sd /-**

**VINAY GOEL**  
**(MEMBER JUDICIAL)**

Signed on this the 18<sup>th</sup> day of September, 2025.

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