



SINGLE BENCH
COURT - II

Pr-4

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. (IB)/1136(KB)2020
IA(I.B.C)/1285(KB)2025

CORAM: 1. HON'BLE MEMBER(J), SHRI LABH SINGH

ORDER SHEET OF THE HEARING ON 16th JULY 2026

IN THE MATTER OF	Vikas Prakash Gupta RP Man Tubinox Ltd. VS Basant Marketing Ltd.
UNDER SECTION	IBC under Sec 7

Counsel appeared through physically or virtually

O R D E R

This matter has been listed today for pronouncement of Order. However, the matter pertains to a Division Bench of this Tribunal, and the Hon'ble Member (Technical) is on leave. Therefore, the matter will be listed for pronouncement of order by the Division Bench, subject to the availability of Hon'ble Member (Technical).

**Labh Singh
Member(Judicial)**

SK/SS



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, (COURT NO.-II)
KOLKATA

I.A.(I.B.C)/1285(KB)2025

In

C.P.(I.B)/1136(KB)2020

*Under Section 60(5) of the Insolvency and Bankruptcy Code,
2016;*

IN THE MATTER OF:

Mr. Vikas Prakash Gupta,
Liquidator of Man Tubinox Limited

...Financial Creditor

Versus

Basant Marketing Private Limited

... Corporate Debtor-In Liquidation

And

IN THE MATTER OF:

Anal Basu, the Liquidator of
Basant Marketing Private Limited
having his address at 27,
Haladhar Bardhan Lane, Kolkata
700012.

Versus

1. Punjab National Bank, having
its Mumbai Samachar Marg Fort
branch at 67, Bombay Samachar
Marg, Sanawala Building, Mumbai
400001.



2. Axis Bank, having its Andheri East Rajmata Jijabai Road Branch at Ambika Tower Co-Op Housing Society Ltd., Shop No. 5,6,7 & 8, Rajmata Jijabai Road, Mogra Pump House, Andheri (East), Mumbai, Maharashtra, Pin 400 069;
3. Goods and Service Tax Department, Joint Commissioner of State Tax (Investigation A) C-9, 2nd Floor, Old Building, GST Bhavan, Mazgaon, Mumbai - 400010;
4. Department of Goods and Service Tax Maharashtra having its office at GST Bhavan, Mazgaon, Mumbai - 400010;

...Respondents

Date of Pronouncement: 17.07.2026

Coram:

Shri. Labh Singh, Member (Judicial)
Ms. Rekha Kantilal Shah, Member (Technical)

Appearances: (via Physical / Hybrid Mode):



O R D E R

(Heard Through Hybrid Mode)

LABH SINGH, JUDICIAL MEMBER

1. This Application has been filed by Mr. Anal Basu, the Liquidator of Basant Marketing Private Limited, Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (for short “IBC” or “the Code”).
2. The present Application is preferred against the four (4) Respondents, namely Punjab National Bank (Respondent No. 1), Axis Bank (Respondent No. 2), Goods and Service Tax Department, (Respondent No. 3), and Department of Goods and Service Tax Maharashtra (Respondent No. 4), seeking the following reliefs:
 - a) *Declaration that the notices or orders of GST Lien/freeze dated 5th January 2021 and 16th March 2020 issued by the Respondent nos. 3 and 4 have become ineffective and unenforceable against the Corporate Debtor;*
 - b) *Direction on the Respondent nos. 1 to remit the moneys lying with them in account no. 00231011003999 to the Liquidation account opened by the Liquidator (being account no. 8828210000021872 with DBS Bank India Limited, Russel Street Branch);*



c) Direction on the Respondent nos. 2 to remit the moneys lying with them in account no. 917020055089060 to the Liquidation account opened by the Liquidator (being account no. 8828210000021872 with DBS Bank India Limited, Russel Street Branch);

d) Such further and/or other order or orders as this Court may deem fit and proper.

3. By an Order dated 24th April 2023, this Adjudicating Authority has admitted the Company Petition being C.P.(I.B)1136/2020 filed by Mr. Vikas Prakash Gupta, Liquidator of Man Tubinox Limited under Section 7 of the IBC for initiating of Corporate Insolvency Resolution Process (for short "CIRP") in respect of Basant Marketing Private Limited, a Company incorporated under the Companies Act, 1956 (Hereinafter referred as "Corporate Debtor" or "CD").
4. In the 2nd Committee of Creditors (for short "CoC") meeting held on 10th June 2023, the sole CoC member considered the situation that the company was a shell company and that the company had no assets and unanimously agreed that liquidation of the Corporate Debtor will follow. Accordingly, an application under Section 33 of the Code was heard by this Tribunal and vide order dated 14th May 2024, the liquidation of the Corporate Debtor was directed, and the Applicant herein was appointed as the Liquidator. The



liquidation of the CD commenced on 14th May 2024.

5. In the order of liquidation, it was stated that the CD had two bank accounts, being Account no. 00231011003999 with the Respondent no. 1 and Account no. 917020055089060 with the Respondent no. 2. Sometime on 8th August 2024, the Assistant Commissioner Sales Tax, Ahmedabad, Gujarat lodged a claim with the Liquidator for an amount of Rs. 55.63 crores. The said claim was rejected by the Liquidator on 13th August 2024 as the last date for receipt/lodging of claim was 13th June 2024. The Assistant Commissioner Sales Tax responded stating that the Liquidator is bound to accept the claim as they are entitled to lodge it within 90 days from the liquidation commencement date.
6. On 17th January 2025, the Assistant Commissioner Sales Tax asked the Liquidator to inform the status of the claim, and the Liquidator clarified via response dated 28th January 2025 that the claim was not accepted as it was beyond time. Subsequently, the Assistant Commissioner Sales Tax informed the Liquidator on 16th June 2025 of their intent to file applications in NCLT challenging the rejection, which the Liquidator refuted and disputed on 24th June 2025.
7. The Liquidator, through various emails, requested Respondent no. 1 Bank to remit Rs. 6.27 lakhs lying in Account no. 00231011003999 and Respondent no. 2 Bank to remit Rs. 4950/- lying in Account no. 917020055089060 to the Liquidation Bank



Account (Account no. 8828210000021872 with DBS Bank India Limited, Russel Street Branch). However, Respondent no. 1 Bank informed the Liquidator on 3rd May 2025 and 7th May 2025 about a lien of Sales Tax vide order dated 5th January 2021 (Annexure 'C' at page 44 of the application) of Rs. 16.32 crores, stating they cannot transfer the balance. Similarly, Respondent no. 2 Bank informed the Liquidator on 8th May 2025 and 13th May 2025 about a lien of GST vide letter dated 16th March 2020 (Annexure D at page 50 of the application) and refused to transfer the balance. Consequently, the moneys of the CD lying with the Respondent nos. 1 and 2 cannot be transferred to the Liquidation Bank Account due to these GST lien/freeze/provisional attachments.

8. The Liquidator wrote to the GST Authorities via emails dated 25th June 2025 regarding these notices or orders, but there has been no response from the said GST Authorities. The constitution of the SCC and their voting percentages are reproduced below:

SI. No	Details of Creditors/ Stakeholders	Amount of claim admitted (Rs.)	percen tage of claim admitt ed to total claim admitt	Date of receipt of claim; Status of such claim
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			ed	
1.	Man Tubinox Limited	27,83,20,000.00	4.40	02/06/2023, Unsecured FC -Accepted at CIRP stage
2.	Income Tax Department	267,44,65,733.00	42.30	25/08/2023, Operational Creditors (Government dues) - Accepted at CIRP stage
3.	Piramal Capital & Housing Finance Limited	336,91,23,288.00	53.29	23/05/2024, Unsecured FC -Accepted at Liquidation stage
4.	National Securities Depository Limited	4,17,843.08	0.01	11/06/2024, Operational Creditors (other than workmen, employees and government dues)
5.	Commercial Tax Department , Govt. of Gujarat	55,63,83,564.00	NIL	08/08/2024, Operational Creditors (Government dues) Rejected at Liquidation stage for the reasons: (a) received after last date 13/06/2024 of Public Announcement and (b) the form for lodging claim used was not prescribed one in IBC, 2016
	Total	632,23,26,864.08	100.00	

9. It is submitted that since the relevant authorities have not lodged their claim with the Liquidator, the same stands



extinguished. Furthermore, even if there was any claim, the moneys would be distributed amongst the creditors in accordance with Section 53 of the Code, as under the IBC and as per settled principles of law, GST lien/freeze orders cannot be enforced post-liquidation.

10. It is submitted that State Taxes or Revenue Department claims do not form or enjoy any privilege over other operational claims under the IBC regime. Accordingly, the orders of lien or freeze passed by Respondent Nos. 3 and 4 are rendered ineffective and unenforceable in law after the initiation of the CIRP or commencement of liquidation proceedings. It is submitted that, in view of Section 238 of the Insolvency and Bankruptcy Code, 2016, the provisions of the Code shall have overriding effect over any inconsistent provision contained in any other law for the time being in force.
11. It is submitted that the IBC laws and as per the settled principles of law in the IBC regime, these notices or orders of GST Lien/freeze are unenforceable and ineffective and such notices cannot continue to be enforceable against the Corporate Debtor.
12. It is submitted that while the GST Authorities do not lodge any claim with the Liquidator, they keep effective or in force the GST orders of lien or freeze of bank accounts, even though these notices have no enforceability as on date.



13. It is submitted that the notices or orders of GST Lien/freeze should be declared ineffective and unenforceable against the Corporate Debtor, and the Respondent nos. 1 and 2 Bankers should be directed to remit the moneys lying with them to the Liquidation account opened by the Liquidator.
14. It is submitted that remitting of the moneys lying in the two bank accounts of the CD with the Respondent nos. 1 and 2 to the Liquidation account is absolutely mandatory since these two bank accounts need to be closed. The Corporate Debtor has no asset which is required to be disposed of by the Liquidator in the liquidation stage, and the only asset which is subsisting is the bank balances in these two bank accounts. Once these 2 bank accounts are closed after remittance of the balances to the CD Liquidation account, only then the application under Section 54 of the Code for the dissolution of the CD can be filed.
15. Heard Learned Counsel for the parties. We have gone through the case file carefully and perused the pleadings and documents placed on record. Despite due service of notice, Respondent Nos. 1, 3, and 4 have failed to appear, and accordingly, the matter was proceeded *ex-parte* against them. Respondent No. 2 appeared through its Advocate, Mr. Vishal Singh, on 20.08.2025. However, Respondent No. 2 has opted not to file a reply affidavit to the present application.



16. The primary issue before this Tribunal is whether Respondent Nos. 1 and 2 Banks are justified in refusal to remit balances of Rs. 6.27 lakhs and Rs. 4950/- respectively to the Liquidation Bank Account due to GST and Sales Tax liens imposed by Respondent Nos. 3 and 4.
17. In view of Section 238 of the IBC, the provisions of the Code shall have an overriding effect over any inconsistent provision contained in any other law for the time being in force, including the recovery provisions under state tax enactments. The Hon'ble NCLAT in the matter of Mr. Hemant Mehta RP of Pan India Utilities Distribution Co. Ltd. v. Asst. Commissioner of State Tax, [(2022) ibclaw.in 596 NCLAT], has held that the Adjudicating Authority is duty-bound to exercise its residuary jurisdiction under Section 60(5) to order the de-freezing of bank accounts to ensure that the objectives of the Code are not frustrated. The relevant extracts of the said judgment are reproduced hereinbelow:

“17. Given that the persistent efforts on the part of the Appellant to defreeze the accounts of the Corporate Debtor did not bear any result; given that there is sufficient proof of reluctance on the part of Respondents 1 to 4 to defreeze the bank accounts of the Corporate Debtor; given that Section 238 of IBC overrides anything inconsistent



contained in any other enactment and also given that Section 60(5) of the IBC vests residuary jurisdiction on the Adjudicating Authority to intervene and, above all, keeping in mind that the cardinal objective of the IBC Code is to obviate uncalled for derailment of the insolvency resolution process, we find sufficient merit in the submission made by the Learned Counsel for the Appellant that the Adjudicating Authority ought to have appreciated the constraints faced by the Appellant/Liquidator and provided relief by exercising its residuary jurisdiction rather than remanding the Appellant once again back in the hands of the government authorities.”

18. In the present case, the relevant Tax Authorities have either failed to lodge their claims within the stipulated time or their claims have been rejected as being beyond time. Under the IBC regime, state taxes or revenue department claims do not enjoy any privilege or priority over other operational claims and must be dealt with strictly in accordance with the waterfall mechanism under Section 53.
19. It is a settled position of law that statutory authorities cannot resort to independent recovery proceedings by attachment or freezing of bank accounts to bypass the



priority of claims prescribed under the Code. As held by the Hon'ble Supreme Court in Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Private Limited, [2023 INSC 625], government dues are placed much below those of secured creditors. The relevant extracts of the said judgment are reproduced hereinbelow:

“49. Rainbow Papers (supra) did not notice the ‘waterfall mechanism’ under Section 53 - the provision had not been adverted to or extracted in the judgment. Furthermore, Rainbow Papers (supra) was in the context of a resolution process and not during liquidation. Section 53, as held earlier, enacts the waterfall mechanism providing for the hierarchy or priority of claims of various classes of creditors. The careful design of Section 53 locates amounts payable to secured creditors and workmen at the second place, after the costs and expenses of the liquidator payable during the liquidation proceedings. However, the dues payable to the government are placed much below those of secured creditors and even unsecured and operational creditors. This design was either not brought to the notice of the court in Rainbow Papers (supra) or was missed altogether. In any event, the judgment has not taken note of the



provisions of the IBC which treat the dues payable to secured creditors at a higher footing than dues payable to Central or State Government.”

20. We observe that the Corporate Debtor has no asset required to be disposed of in the liquidation stage other than the bank balances lying in Account no. 00231011003999 with Respondent No. 1 and Account no. 917020055089060 with Respondent No. 2. The continuation of these liens serves as a hindrance to the Liquidator's statutory duty under Section 35(1)(b) to take into his custody or control all the assets and property of the Corporate Debtor. These accounts must be closed and the balances remitted to the CD Liquidation account (Account no. 8828210000021872 with DBS Bank India Limited, Russel Street Branch) to enable the filing of an application under Section 54 of the Code.

21. We find that the Liquidator's request for de-freezing to be maintainable as per Pinakin Shah-Liquidator of M/s Brew Berry Hospitalities Pvt. Ltd. v. Assistant Commissioner of State Tax [(2021) ibclaw.in 137 NCLAT], which mandates the release of bank freezes to consolidate the liquidation estate. The relevant extracts of the said judgment are reproduced hereinbelow:

“8. The Learned Counsel has referred to this Order of Hon'ble Supreme Court as well as the Judgment referred by the Hon'ble Supreme Court in the Order



and submits that the freezing of Account by the Respondent No. 1 is not maintainable and the Liquidator cannot be made to run to the parties and Authorities under the Sales Tax Act to get the Account defreezed. Learned Counsel submits, and, rightly says that Liquidation Proceedings are time-bound to maximize the value and all the Creditors are entitled to get their dues only in terms of Section 53 of I & B Code, 2016 and different Creditors cannot be allowed to resort to different proceedings and enactments only because they are Authorities under earlier enactments considering the Provision of Section 238 of I & B Code, 2016.

22. In light of the above findings, this Tribunal directs as follows:

- a) The notices or orders of GST/Sales Tax lien or freeze issued by Respondent Nos. 3 and 4, specifically the order dated 5th January 2021 and letter dated 16th March 2020, are hereby declared ineffective and unenforceable against the Corporate Debtor.
- b) Respondent No. 1 Bank is directed to remit the moneys lying in Account no. 00231011003999 to the Liquidation Bank Account (Account no. 8828210000021872 with DBS Bank India Limited, Russel Street Branch) opened by the



Liquidator within 30 days.

c) Respondent No. 2 Bank is also directed to remit the moneys lying in Account no. 917020055089060 to the said Liquidation Bank Account within 30 days.

d) The Liquidator is directed to proceed with the distribution of the consolidated funds strictly as per the waterfall mechanism under Section 53.

23. In terms of the above, this I.A.(I.B.C)/1285(KB)2025 in C.P.(I.B)/1136(KB)2020 is hereby disposed of accordingly.

24. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

25. Certified copy of the order may be issued, if applied for, upon compliance of all requisite formalities.

26. File be consigned to the record.

Rekha Kantilal Shah
Member (Technical)

Labh Singh
Member (Judicial)

SRIDHAR.R(LRA)