



NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.202
IA/107(MP)2022
in

TP 20 of 2019 [CP(IB) 358 of 2019]

Proceedings under Section Sec. 35 & 60(5) of IBC, 2106 r.w. Rule 11

of NCLT Rules, 2016

IN THE MATTER OF:

CMA Shaikh Nafis Anjum, Liquidator of Suvidha
Farming Allied Ltd

.....Applicant

V/s

The Tehsildar, Bhkhara & Anr

.....Respondent

Coram:

Hon'ble Shri Brajendra Mani Tripathi, Member (J)

Hon'ble Shri Man Mohan Gupta Member (T)

PRONOUNCEMENT OF ORDER

Delivered on 08/04/2026

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

SD/-

SD/-

MAN MOHAN GUPTA
MEMBER (TECHNICAL)

BRAJENDRA MANI TRIPATHI
MEMBER (JUDICIAL)

Chandni - LRA



NCLT Indore Bench
Order dated: 08.04.2026
IA (I.B.C)/442/MP/2025 in
[CP(IB) 68 of 2019]

IN THE NATIONAL COMPANY LAW TRIBUNAL

INDORE BENCH

IA (I.B.C)/107/MP/2022

in

TP 20 of 2019 [CP(IB) 358 of 2019]

[This is an application under section 35, Section 60(5) of the Insolvency and Bankruptcy Code, 2016 Read with NCLT, Rules 2016]

IN THE MATTER OF:

CMA Shaikh Nafis Anjum,

Liquidator of Suvidha Farming Allied Limited
Having office at: A-206, Prateek Stylome
Apartment Sector 45, Noida, Uttar Pradesh-
201303

.....Applicant

Versus

The Tehsildar, Bhkhara

District: Dhamtari, Chhatisgarh 43773

..... Respondent No. 1

The Collector

District Dhamtari, Chhattisgarh-43773

..... Respondent No. 2

CORAM:

SHRI. BRAJENDRA MANI TRIPATHI, HON'BLE MEMBER (JUDICIAL)

SHRI. MAN MOHAN GUPTA, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For the Applicant: Ms. Natasha Dhruvan Shah, Adv (Online)

For the Respondent: Ms. Meena Chaphekar, Adv (Physical)



ORDER

(Delivered on 08.04.2026)

1. The present Application has been filed by the Applicant under section 35, Section 60(5) of the Insolvency and Bankruptcy Code, 2016 Read with NCLT, Rules 2016 seeking following relief and concession as follows:

- a) *Allow the present application;*
- b) *Direct the Respondents to extend utmost co-operation to the Applicant for the effective and successful dissolution of the Corporate Debtor;*
- c) *Direct the Respondents to hand over physical possession of the property of the Corporate Debtor located at Khasra No. 1032, 1038 and 1039 of the Dhamtari District to the Applicant.*
- d) *Declare the sale of Khasra No. 1032, 1038 and 1039 of the Dhamtari District through auction advertisement dated 10.08.2021 as null and void.*
- e) *Direct Respondent No. 2 to intimate all concerned financial creditors to submit their claims with the Applicant in appropriate Form in accordance with Code, 2016 and relevant regulations applicable for the time being in force.*
- f) *Your Lordship may be pleased to grant any other relief or relief as may deem fit in the interest of justice.*



PLEADINGS OF THE APPLICANT:

2. The Applicant, in the capacity of Liquidator of the Corporate Debtor, has filed the present application under Sections 35 and 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, seeking directions against the Respondents for extending cooperation, handing over physical possession of the properties of the Corporate Debtor, declaration of the auction sale as null and void, and for directing concerned authorities to submit their claims before the Applicant.
3. It is submitted that the Corporate Insolvency Resolution Process ("CIRP") of the Corporate Debtor commenced on **21.09.2020**, and the Applicant was appointed as the Interim Resolution Professional, whose appointment was subsequently confirmed by the Committee of Creditors.
4. The Applicant submits that during the CIRP, it came to light that the Respondents had issued an auction notice dated 10.08.2021 in respect of properties of the Corporate Debtor situated at Khasra Nos. 1032, 1038 and 1039 at Dhamtari. Aggrieved thereby, the Applicant approached this Hon'ble Tribunal filing an Interlocutory application **170 of 2021** seeking cancellation of the said auction.
5. This Hon'ble Tribunal, vide order dated **09.12.2021 in IA 170 of 2021**, directed the Respondents not to proceed with the sale of the properties of the Corporate Debtor during the subsistence of the CIRP.



6. Thereafter, liquidation of the Corporate Debtor was ordered on **16.12.2021**, and the Applicant was appointed as the Liquidator. The Applicant, vide letter dated **21.12.2021**, informed the Respondents about the commencement of liquidation and requested them to hand over custody and possession of the subject properties forming part of the liquidation estate. Subsequently, an **e-auction notice dated 29.03.2022** was published by the Applicant for sale of the assets of the Corporate Debtor, and the said auction was scheduled to be held on **14.04.2022**.
7. It is submitted that the Respondents, vide letter dated **11.04.2022**, informed the Applicant that the subject property admeasuring **2.40 hectares** had already been sold on **18.08.2021**, pursuant to an order dated **06.03.2021** passed by the competent Court under the provisions of the **Chhattisgarh Protection of Interest of Depositors Act, 2005**, and requested the Applicant to halt the e-auction process initiated by the Liquidator.
8. The Applicant contends that the said auction was conducted during the subsistence of the moratorium period and is therefore unsustainable in law. The Applicant further submits that despite repeated communications seeking details of the property, claims of investors, and peaceful possession of the assets, the Respondents have failed to cooperate.



9. It is further stated that as per available records, no charge is reflected on the assets of the Corporate Debtor, and the subject property forms part of the liquidation estate. The Applicant has also relied upon judicial precedents to contend that the provisions of the Insolvency and Bankruptcy Code have an overriding effect and that this Hon'ble Tribunal has inherent powers to grant appropriate reliefs, including restoration of status quo ante.
10. The Applicant has also relied upon various judicial pronouncements in support of its contentions regarding the overriding effect of the Insolvency and Bankruptcy Code, 2016 and the impermissibility of parallel proceedings against the assets of the Corporate Debtor. In this regard, reliance has been placed on ***The Directorate of Enforcement vs. Manoj Kumar Agarwal & Ors., Company Appeal (AT) (Insolvency) No. 575 of 2019, decided on 09.04.2021***, wherein the Hon'ble NCLAT held that once CIRP is initiated, actions such as attachment under other statutes cannot override the provisions of the Code. The property should become available to fulfil objects of IBC till a resolution takes place or sale of liquidation asset occurs in terms of Section 32A. Further reliance has been placed on ***National Spot Exchange Limited & Ors. vs. Namdhari Food International Pvt. Ltd. & Ors., Company Appeal (AT) (Insolvency) Nos. 293 & 301 of 2020, decided on 20.09.2021***, wherein it was held that the seizure or attachment of accounts of Corporate Debtor cannot stand as



obstruction when the Corporate Debtor is at the stage of liquidation under IBC . The Applicant has also relied upon the judgment of the Hon'ble Supreme Court in ***Sundaresh Bhatt, Liquidator of ABG Shipyard vs. Central Board of Indirect Taxes and Customs, (2023) 1 SCC 472, decided on 26.08.2022***, The IBC would prevail over The Customs Act, to the extent that 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.

REPLY OF THE RESPONDENT NO. 2:

1. The Respondent deny the allegations made by the Applicant that the subject property of the Corporate Debtor was sold during the pendency of CIRP in violation of law or that possession is liable to be handed over to the Applicant. It is contended that the actions taken were in accordance with law and pursuant to valid orders passed by competent authorities.
2. The Respondent submit that the auction of the subject property was conducted prior to the order dated **09.12.2021 in IA 170 of 2021** passed by this Adjudicating Authority and in compliance with judicial orders passed by a competent Court, which, in the absence of any appeal, have attained finality.



3. It is submitted that an FIR bearing Crime No. **300/2017** was registered on **08.08.2017** against the directors of the Corporate Debtor under the provisions of the Indian Penal Code and the Chhattisgarh Protection of Interest of Depositors Act, 2005. During the course of investigation, the original title deeds of the subject property were seized by the investigating authorities.
4. Pursuant thereto, the Collector and District Magistrate, Dhamtari, vide order dated **06.12.2017**, passed under the provisions of the said Act, directed auction of the subject property based on investigation reports.
5. It is further submitted that an application under Section 7(2) of the said Act was filed before the Special Court, Dhamtari, seeking confirmation of the order dated 06.12.2017, and vide order dated **06.03.2021**, the said order was declared absolute and the auction proceedings were confirmed.
6. The Respondent submit that, pursuant to the aforesaid order dated 06.03.2021, the competent authorities were duly authorized to conduct the auction. It is further stated that notices dated **08.04.2021** were issued to the Corporate Debtor informing it of the proposed auction and its right to prefer an appeal before the Hon'ble High Court.
7. It is contended that no appeal was filed challenging the order dated **06.03.2021**, and therefore, the said order attained finality. Consequently, the subject property was sold through auction on



18.08.2021, and the same was duly communicated vide report dated **19.08.2021** and published through public proclamation.

8. The Respondent submit that they came to know about the pendency of CIRP only upon receipt of letter dated **10.02.2021** from the Applicant, received on **15.02.2021**, though by that time proceedings before the Special Court had already progressed.
9. It is further submitted that the Applicant was informed about the auction proceedings vide letter dated **21.06.2021**. The Applicant, vide letter dated **23.08.2021** (received on **31.08.2021**), sought to stay the auction proceedings citing CIRP. It is stated that the Applicant also filed IA No. 170/2021 and communicated the same to the Respondents.
10. The Respondent contend that, vide letter dated **13.09.2021**, they informed the Applicant that the auction had been initiated in compliance with the order dated 06.03.2021 passed by the Special Court and that they, being revenue authorities, had no jurisdiction to stay the same. It is further contended that the auction had already been conducted on **18.08.2021**, prior to any restraint order.
11. It is submitted that the disbursement of the amount received from the auction has been kept in abeyance in compliance with the orders of this Adjudicating Authority.
12. The Respondent has further submit that the Applicant was appointed as Liquidator only vide order dated **16.12.2021**, whereas the auction had already been conducted on 18.08.2021. It is stated that when the



Applicant initiated fresh auction proceedings vide notice dated **29.03.2022** fixing auction on **14.04.2022**, the Respondents, vide letter dated **11.04.2022**, informed the Applicant that the subject property had already been auctioned and that re-auction would result in multiplicity of proceedings.

13. It is further submitted that the Applicant, despite having knowledge of the earlier auction, sought details of the same vide letter dated **20.04.2022**, which were duly provided.
14. The Respondent contend that the proceedings in respect of the subject property were initiated much prior to the commencement of CIRP and that the Applicant has suppressed material facts relating to such proceedings.
15. It is further contended that since the auction was conducted on **18.08.2021**, prior to the order dated **09.12.2021**, the same cannot be said to be violative of Section 14 of the Insolvency and Bankruptcy Code, 2016.
16. The Respondent also raise the issue of non-joinder of necessary parties and submit that the subject property, having already been auctioned, is liable to be excluded from the liquidation estate.

Observations and Findings:

17. For clarity, the relevant timeline of events is as under:

Date	Event
06.12.2017	Collector order for auction under Depositors Act
21.09.2020	CIRP commenced → Moratorium starts
06.03.2021	Special Court confirms auction proceedings



10.08.2021	Auction notice issued by Respondents
18.08.2021	Auction conducted for slae of property in compliance with the direction of special court vide order dated 06.03.2021
09.12.2021	NCLT restrains sale order passing an order in IA 170 of 2021
16.12.2021	Liquidation order passed
24.11.2022	The AA heard the learned counsel from both sides. The AA then directed the R2 not to disburse the amount till this application is disposed of.
06.08.2025	Affidavit by Respondent clarifying status in light of order dated 04.06.2025
04.09.2025	Response of the applicant to the clarificatory affidavit of respondent

18. Upon hearing the learned counsel for the parties and perusing the material available on record, this Adjudicating Authority proceeds to examine the issues arising in the present application.
19. The primary issue for consideration is “***whether the auction of the subject property of the Corporate Debtor conducted by the Respondents on 18.08.2021, pursuant to the order dated 06.03.2021 passed by the Special Court, Dhamtari under Section 7(2) of the Chhattisgarh Protection of Interest of Depositors Act, 2005, can be sustained in law in view of the commencement of Corporate Insolvency Resolution Process and the imposition of moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016.***”
20. That the **Corporate Insolvency Resolution Process of the Corporate Debtor commenced on 21.09.2020**, and consequently, moratorium under Section 14 of the Code came into effect from the said date. Section 14 of the Code clearly prohibit, inter alia, “*the institution or*



continuation of suits or proceedings against the Corporate Debtor, including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority.”

21. The provision further bars any action to foreclose, recover or enforce any right or interest against the property of the Corporate Debtor during the subsistence of the moratorium.
22. In the present case, although the Respondents have contended that the auction was conducted pursuant to the order dated **06.03.2021** passed by the Special Court, Dhamtari, it is evident from the record that the said order, as well as the consequential auction dated **18.08.2021**, fall squarely within the period during which moratorium under Section 14 was in force.
23. This Adjudicating Authority is of the considered view that once moratorium is imposed, no proceedings, whether civil or arising under any other statute, can be continued or enforced against the assets of the Corporate Debtor, unless specifically permitted under the Code. The embargo under Section 14 is absolute in nature and derives further strength from the overriding effect provided under Section 238 of the Code which says as follows:

Section 238: Provisions of this Code to override other laws.

238. The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.



24. Therefore, any action taken in furtherance of such proceedings, including auction or transfer of assets of the Corporate Debtor during the subsistence of moratorium, cannot be sustained in law and effect of such transaction in terms of section 14 IBC, 2016 is null and void.
25. The contention of the Respondents that the order dated 06.03.2021 attained finality on account of non-filing of appeal does not dilute the effect of Section 14 of the Code. It is pertinent to note that the said order of the Special Court, though relied upon by the Respondents, was passed during the subsistence of the moratorium, and therefore, any action taken pursuant thereto, including the auction proceedings, is hit by Section 14 of the Code and cannot be sustained in law. Consequently, all actions taken in furtherance of such order are rendered non est and void.
26. The statutory mandate of moratorium operates with full force notwithstanding the stage or nature of proceedings, and any action taken in violation thereof cannot be legitimized on the ground of finality of such order or absence of challenge before any higher forum.
27. This Adjudicating Authority further takes note of the affidavit filed by Respondent No. 2 in compliance with order dated **04.06.2025**, wherein it has been clarified that although the subject property was auctioned on **18.08.2021** for a total consideration of **₹1,28,85,000/-**, the bidder has deposited certain amount of **₹3,29,188/-**, which has been kept as security in the account of the Sub-Divisional Officer (Revenue), Kurud.



It has been further stated that no further transaction has been carried out upon the Respondents becoming aware of the present proceedings.

28. It is also stated that **no sale certificate has been issued**, the **registration of the property has not been effected**, and the **Rin-pustika has not been prepared**. Further, possession of the subject property continues to remain with the representatives of the Corporate Debtor.
29. The aforesaid facts clearly demonstrate that the auction proceedings have not attained finality and remain incomplete, and no right, title or interest has been created in favour of the auction purchaser.
30. The Applicant, in response to the affidavit filed by respondent, has reiterated that the subject property forms part of the assets of the Corporate Debtor and is liable to be included in the liquidation estate. It is further contended that the provisions of the Insolvency and Bankruptcy Code, 2016 have an overriding effect over other enactments, including the **Chhattisgarh Protection of Interest of Depositors Act, 2005**, and therefore, any action taken by the Respondents in respect of the said property cannot be sustained in law. The Applicant has also submitted that the control and custody of the assets of the Corporate Debtor vest with the Liquidator, and this Adjudicating Authority is empowered to pass appropriate orders to safeguard the assets and ensure proper conduct of the liquidation process.



31. We are fully in agreement with the contentions of the applicant in response to the affidavit filed by the respondent.
32. It is also noted that the amount received from the auction has not been disbursed and has been kept in abeyance, as recorded in the proceedings before this Adjudicating Authority. This further indicates that the auction process remains inconclusive and no right, title or interest has been created in favour of the auction purchaser.
33. Further, With respect to the argument of the Respondents that the auction was conducted under the provisions of the Chhattisgarh Protection of Interest of Depositors Act, 2005 is also not tenable in view of the overriding effect of the Insolvency and Bankruptcy Code. Once CIRP is initiated, the assets of the Corporate Debtor come under the control and custody of the Resolution Professional / Liquidator, and no parallel proceedings affecting such assets can be permitted to continue.
34. This Adjudicating Authority also takes note of its order dated 09.12.2021 passed in IA No. 170 of 2021 (Annexure C), wherein it was categorically held that since the Corporate Insolvency Resolution Process was ongoing and moratorium under Section 14 of the Code was in force, the Respondents could not proceed with the sale or disposal of the properties of the Corporate Debtor. Accordingly, the Respondents were specifically restrained from proceeding with the auction of the assets of the Corporate Debtor till completion of CIRP.



35. Although the Respondents have contended that the auction was conducted on 18.08.2021 prior to the order dated 09.12.2021 passed by this Adjudicating Authority, it is an admitted position that the said auction was conducted during the subsistence of the moratorium under Section 14 of the Code. The auction proceedings could not be proceeded with or concluded on account of the moratorium imposed under the Code. It is further noted that the amount received pursuant to the auction has not been disbursed and has been kept in abeyance in compliance with the directions of this Adjudicating Authority. Moreover, no sale certificate has been issued, nor has any right, title or interest been transferred in favour of the auction purchaser.
36. Accordingly, this is not merely a case of violation of moratorium under Section 14 of the Code, but one where the auction proceedings, having remained incomplete due to the subsistence of the CIRP and the restraint order dated 09.12.2021 passed by this Adjudicating Authority, are incapable of conferring any legal right, title or interest in favour of the auction purchaser.
37. It is further observed from the record that the Applicant, vide communication dated 20.04.2022, had requested the Respondents to furnish details of investors/depositors who had lodged claims in respect of the Corporate Debtor, along with details of amounts invested and claimed. In response, the office of the Collector, Dhamtari, vide communication dated 28.04.2022, provided details indicating that as



many as 5,385 investors had lodged claims aggregating to approximately ₹12.94 crores in respect of the Corporate Debtor.

38. The aforesaid material reflects that there exist multiple stakeholders who have claims against the Corporate Debtor, which are required to be duly examined and processed in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016.
39. In such circumstances, the role of the Liquidator in collating, verifying and admitting claims assumes significance, particularly when the liquidation process is ongoing and the distribution of assets is yet to take place.
40. In view of the above, this Adjudicating Authority is of the considered opinion that the subject property forms part of the assets of the Corporate Debtor and is required to be dealt with strictly in accordance with the provisions of the Code during liquidation, and any action taken dehors the provisions of the Code cannot be sustained.
41. The Petition is meant to be allowed and we decide as follows:
 - i) The auction and sale conducted on 18.08.2021 w.r.t Khasra No. 1032, 1038 and 1039 of the Dhamtari District pursuant to order dated 06.03.2021 is declared null and void and is accordingly set aside.
 - ii) The Respondents are directed to restore status quo ante and hand over possession of the subject property to the Liquidator.



- iii) The Respondents shall extend full cooperation to the Applicant in discharge of duties under the Code.
- iv) The Respondents are restrained from dealing with the assets of the Corporate Debtor in any manner contrary to the provisions of the Code.
- v) Insofar as the claims of investors/depositors are concerned, it is directed that all such stakeholders shall be at liberty to submit their claims before the Liquidator in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 and the regulations framed thereunder. The Respondents are directed to extend necessary cooperation by furnishing all relevant details of such claimants to the Liquidator, if not already provided.
42. The Applicant/Liquidator and the respondent are directed to inform the stakeholders accordingly.
43. In view of the foregoing, the Application **IA (I.B.C)/107/MP/2022 is allowed and disposed off.**

SD/-

MAN MOHAN GUPTA
MEMBER (TECHNICAL)
Chandni - LRA

SD/-

BRAJENDRA MANI TRIPATHI
MEMBER (JUDICIAL)