

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
ALLAHABAD BENCH, PRAYAGRAJ**

**IA NO.285/ALD/2020  
in  
CP (IB) No.55/ALD/2017**

*In the matter of:*  
Lohia Corp. Limited

*...Applicant*

*Versus*

Kanpur Nagar Nigam  
Moti Jheel Avenue, Harsh Nagar  
Kanpur-208002  
No.1

.....Respondent

Shri. Arun Gupta,  
Liquidator of LML Ltd.  
no.2

.....Respondent

***Coram:***

Shri Rajasekhar V.K. : Member (Judicial)  
Shri Virendra Kumar Gupta : Member (Technical)

***Appearances (through video conference):***

For Applicant Ms Babita Jain, Advocate

Order reserved on: 22.03.2022

Order pronounced on: 06.04.2022

**ORDER**

*Rajasekhar V. K., Member (Judicial)*

1. This application has been filed by the auction purchaser of the property of the corporate debtor under Sec 60(5) of IBC, 2016 seeking direction against Kanpur Nagar Nigam to quash the bill dated 22.01.2020 issued by them and praying for direction to restrain them from making any direct demand in respect of arrears of house tax for the period prior to the date of purchase by the applicant.

—Sd—

2. The facts, in brief, are that the CIRP in the present case, commenced as a consequence of the order dated 30.05.2017 of this Adjudicating Authority, wherein Mr. Anil Goel was appointed as IRP who was later confirmed as RP. Subsequently, *vide* order dated 23.03.2018, liquidation was passed by this Adjudicating Authority and Sh. Arun Gupta was appointed as the Liquidator who issued notice for sale of assets of LML Limited *vide* notice dated 31.12.2018 through e-auction. In the said e-auction, the applicant bid for the land and building of LML Limited situated at C-3 and C-4, Site- I, Panki Industrial Area, Kanpur, which was approved by the liquidator and Sale Certificate dated 19.04.2019 was also issued to the applicant. Further the applicant has acquired physical possession of the property on 19.04.2022.
3. It is further submitted that respondent no.1, *i.e.*, Kanpur Nagar Nigam, sent a consolidated bill/notice to the applicant claiming arrears of house tax for the period prior to the purchase of said property by the applicant. It is further stated that applicant has a clear title free from all encumbrances, charges and liabilities prior to the acquisition of the said property and thus, he is not liable for any outstanding dues or arrears of the property prior to its purchase. The applicant *vide* letter dated 29.01.2020 has specifically stated to the respondent no.1 that the claim of the arrears of the house tax can be filed before the liquidator and he is not liable to make any payment thereof.
4. In reply, Respondent No.1 submitted that under the UP Municipal Corporation Act 1959, the house tax is to be imposed upon a person, who is in physical possession over the property so the applicant is liable to pay the tax.
5. In rejoinder, the applicant stated that prior to taking of the possession of the property, *i.e.*, on 19.04.2019, the applicant is neither the owner nor the occupier and the same was owned by LML Limited and, therefore, the respondent No.1 should submit their claim before the Liquidator as the same fall under the category of “Operational Debt.”

—Sd—

6. Heard the Learned counsel appearing for the applicant and perused the records. It was found that no material has been brought on record to show that such tax was ever paid prior to the auction nor any record is brought on record reflecting that after the date of physical possession of the property the tax was to be borne by the applicant.
7. Now as the liquidation order in the present matter is still in process thus for all the dues against the corporate debtor, the claim can be filed before the Liquidator and the same shall be considered by the Liquidator in terms of Sec 53 of IBC, 2016. It is not in dispute the dues are of the period prior to the purchase of the property and it will fall under the category of claim of the nature of Operational Debt and the Respondent No.1, *i.e.*, Kanpur Nagar Nigam is an Operational creditor. Hence, Respondent No.1 is entitled to recover such dues by filing appropriate claim with the liquidator in accordance with law and the successful Resolution Purchaser, *i.e.*, the applicant cannot be liable to discharge the arrears prior to the period of possession being taken over by the applicant herein.
8. With the above directions, IA No.285/ALD/2020 stands disposed of.
9. Urgent certified copies of this order be issued, if applied for, subject to usual formalities.

—Sd—

**Virendra Kumar Gupta**  
**Member (Technical)**

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by Rajasekhar V K  
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**Rajasekhar V.K.**  
**Member (Judicial)**