

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
Court 2**

IA 769 of 2020 in CP(IB) 107/NCLT/AHM/2019

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 04.12.2020**

Name of the Company: Pinakin Shah Liquidator of Brew Berry
Hospitalities Pvt Ltd
V/s
The Assistant Commissioner of State Tax
& Anr
IA For Directions

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
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1.

2.

ORDER
(Through Video Conferencing)

Advocate, Ms. Kotwal is present on behalf of the applicant.

The instant application is filed under Section 33(5) of the Insolvency and Bankruptcy Code, 2016, with a prayer to pass directions upon respondent no.2 to defreeze A/c No. 08432090000149 held in the name of the Corporate Debtor at Kotak Mahindra Bank Ltd., situated at Vadodara.

It is matter of record that, the Corporate Debtor is under liquidation having sole current account in its name at Kotak Mahindra Bank Ltd., Vadodara Branch, wherein an amount of Rs.70,461.79 is reflected. Due to attachment of the bank account by the Assistant Commissioner of State Tax, Vadodara, the applicant is not able to operate the bank account and, therefore, is unable to meet the regular payments to meet the liquidation expenses of the corporate debtor. In view of that filed the instant application for appropriate order/directions.

Heard learned lawyer appearing for the applicant at length.





On perusal of the record, it is found that the applicant has annexed copy of notice, issued by the office of the Assistant Commissioner of State Tax, Unit 44, 5th Floor, Kuber Bhavan, Kothi Compound, Raopura, Vadodara, Gujarat, under Section 44 of the Gujarat Value Added Tax Act, 2003 (GVAT Act) dated 01.09.2020. However, on receipt of the said notice, the applicant has not responded, i.e. within seven days from the date of receipt of the notice, as stipulated in the notice itself.

It is the prime duty of the liquidator to apprise the competent authority of the State Tax office, Vadodara, about the present status and give appropriate reply to the said notice. Instead of doing that, approached this Adjudicating Authority. In our opinion, it is not wise to transgress with the jurisdiction of the competent authority of State Tax, as the State Tax Authority is having ample power to take cognizance of the matter by passing any appropriate order.

Under such circumstance, the liquidator may approach before the competent authority, i.e. office of the State Tax, and get redress and / or apprise the present status of the corporate debtor company with the relevant provisions as provided in the I&B Code. It is needless to mention herein that the Assistant Commissioner of State Tax have their own Adjudicating Authority as well as Appellate Authority to adjudicate upon any matter as per law so provided by the parliament.

In view of that, the instant application is not maintainable and the liquidator is at liberty to approach before the competent authority to redress his grievance(s).

Accordingly, the instant application is dismissed, as not maintainable.


CHOCKALINGAM THIRUNAVUKKARASU
MEMBER (TECHNICAL)


MANORAMA KUMARI
MEMBER (JUDICIAL)

Dated this the 4th day of December, 2020.