**IN THE NATIONAL COMPANY LAW TRIBUNAL**,

**KOLKATA BENCH,**

**KOLKATA**

**<u>I.A.(IB) 1033/KB/2021</u>**
**<u>In</u>**
**<u>C.P (IB) No.432/KB/2018</u>**

**<u>In the matter of</u>**

An application under section 60(5) read with Section 35(1)(N) of the of the Insolvency and Bankruptcy Code, 2016;

And

**<u>In the matter of</u>**:

IDBI Bank Limited

…. Financial Creditor

Versus

Leather World India Limited (Under Liquidation)

…. Corporate Debtor

And

**In the matter of**

Anil Agarwal, Liquidator, IP Registration No. IBBI/IPA-001/IP-P00270/2017-18/10514 AAA Insolvency Professional LLP,The Chambers, Unit No. 508,5th Floor, 1865, Rajdanga Main Road, Kolkata-700107

…. Applicant

And

Income Tax Officer, Ward No. 2(1), TDS, Income Tax Department, 10B Middleton Row, 7th Floor, Kolkata-700071.

… Respondent

<u>Date of hearing : 02/03/2022</u>

<u>Order Pronounced on : 08/03/2022</u>

**<u>Coram</u>:**
***Mr. Rohit Kapoor, Member (Judicial)***
***Mr. Harish Chander Suri, Member (Technical)***

**Counsels appeared through Video Conference**

1. Mr. Shaunak Mitra, Adv. } For Liquidator
2. Mr.Arun Kumar Gupta, Adv.

1. Mr. Jishnu Chowdhury, Adv. } For Applicant IA/1097/2021
2. Mr. Nirmalya Dasgupta, Adv.

1. Mr. Rajdip Ray,Adv. } For KMC

***O R D E R***

**Per: Harish Chander Suri, Member (Technical)**

1. The Court is convened by video conference today.

2. This application being IA (IB) **I.A.(IB) 1033/KB/2021 in C.P. (IB) 432 /KB/2018** has been filed by Anil Agarwal, Liquidator against the Income Tax Officer, Ward No. 2(1),TDS, Income Tax Department, Kolkata seeking directions to the Income Tax Department to release its lien on the Bank Account Nos. 691011002989, 691044000138.

3. It is submitted that following initiation of Liquidation process, the Liquidator sent letter to the Banks intimating such initiation of Liquidation proceedings and requesting for closure of existing accounts. It is further submitted that letter was sent to Kotak Mahindra Bank for transfer of amount existing in the name of Corporate Debtor with their Bank and subsequently closure of the bank account number 691011002989, 691044000138 and/or any other account which are maintained with the Kotak Mahindra Bank.

4. It is further submitted that upon intimations and requests, Kotak Mahindra Bank vide mail dated 06/08/2021 informed the Liquidator that the amounts in the name of Leather World India Limited are marked with lien to the Income Tax Department and therefore, they are unable to transfer the account credit balance to any other account or rather take any action on such account. Upon knowledge of the same, Liquidator issued letters to the Income

Tax Department(Respondent) requesting them to release the lien on bank account in the name of CD citing the law in regard to a company undergoing Liquidation process. Even after such communications, there is no action coming forth from any of the respondent.

5. Notice of this application was issued by this Adjudicating Authority on 21st December, 2021 and opportunity was also given to file reply within two weeks of receipt of notice. In spite of the service of notice to the Respondent, there was no appearance on behalf of the Respondents. When the matter was listed on 9th February ,2022, there was no appearance. The matter was taken up today. The Ld. Counsel appearing for the Liquidator along with Mr. Arun Kumar Gupta, Liquidator submitted that in this very matter in CA(IB)1149/KB/2019 orders were passed on 8th August, 2019, in a similar situation, this Adjudicating Authority had passed the following order:-

> *"CA(IB) 1149/LB/2019 is again filed by the Liquidator for direction to the Department of Commercial Taxes, State of Bihar because they have seized the bank account of the corporate debtor. Notice is served to that office but none appears on their behalf. Since the Corporate Debtor was in the course of liquidation and in order to have completion of process of liquidation in expeditious manner, we direct the department to release the accounts which they have seized. Even Kotak Mahindra Bank is directed to defreeze the account on the basis of this order in CA(IB) No. 1149/KB/2019. CA(IB) No. 1149/KB/2019 stands disposed* off".

6. We find that in CP (IB) 1149/KB/2019, the account of the Corporate Debtor had been seized at the instance and directions of Commercial Taxes, State of Bihar and this Adjudicating Authority had directed that since the Corporate Debtor was in the course of liquidation and in order to have completion of process of liquidation in expeditious manner, the department shall release the accounts which have been seized. This Adjudicating Authority had even directed Kotak Mahindra Bank to defreeze the account on the basis of the order in CA(IB)1149/KB/2019.

7. Applying the same analogy, to the facts which are similar to the ones in the said application, we, therefore, directed the Income Tax Department to immediately remove their lien from the Bank Account No. 691011002989, 691044000138 in Kotak Mahindra Bank which belongs to the Corporate Debtor under Liquidation.

8. We direct the Kotak Mahindra Bank also to defreeze the account on the basis of this order.

9. With these directions, IA(IB)No.1033/KB/2021 stands disposed of.

10. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

**(Harish Chander Suri)**
**Member (Technical)**

**(Rohit Kapoor)**
**Member (Judicial)**

Order signed on, this 8th of March, 2022

Pj