NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

IA. NO. 1488/ND/2025 & IA NO. 1749/ND/2025
IN
Company Petition No. (IB)-597(PB)2021

IN THE MATTER OF (IB)-597(PB)/2021:
(SECTION: 7 of IBC, 2016)

Sachin Singh & Ors. **... Applicant/ Financial Creditor**

Versus

M/s Three C Properties Private Limited **... Respondent/ Corporate Debtor**

AND IN THE MATTER OF IA NO. 1488/ND/2025:
(SECTION: 60(5) of IBC, 2016)

New Okhla Industrial Development Authority
Main Administrative Building,
Sector 6, NOIDA, Uttar Pradesh-201301 **... Applicant**

Versus

Devendra Umrao
Resolution Professional
M/s Three C Properties Private Limited
2216, Second Floor, Tower A, Corenthum,
Sector 62, NOIDA-201301 **... Respondent**

AND IN THE MATTER OF IA NO. 1749/ND/2025:
(SECTION: 60(5) of IBC, 2016)

Devendra Umrao
Resolution Professional for
M/s Three C Properties Private Limited
Registered Office at:
94-D, Pocket-F.
Mayur Vihar Phase-2, New Delhi **... Applicant**

Versus

Kotak Mahindra Bank
Through its Branch Manager

Registered office at:
No. 2, Ground Floor, Poorvi Marg,
Vasant Vihar, New Delhi-110057

Also At:
27 BKC, C27, G Block
Bandra Kurla Complex
Bandra (E), Mumbai-400051
Maharashtra

... Respondent No. 1

Sub-Divisional Magistrate (SDM)
Dadri, Gautam Buddha Nagar
Uttar Pradesh-203207

... Respondent No. 2

Order Delivered on: 30.04.2026

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

MS. REENA SINHA PURI, HON'BLE MEMBER (T)

PRESENT:

For the RP	**:** Adv. Abhishek Anand, Adv. Karan Kohli, Adv. Vanshika Dhoot
For the Home Buyer	**:** Adv. Kumar Mihi
For the NOIDA	**:** Adv. Rachit Mittal, Adv. Parish Mishra, Adv. Srishti Agarwal, Adv. Abhishek Sinha, Adv. Shivansh Bansal

ORDER

PER: MS. REENA SINHA PURI, MEMBER (T)

IA-1488/ND/2025

The present Application has been filed by New Okhla Industrial Development Authority (NOIDA / Applicant) under Section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016, seeking directions against Mr. Devendra Umrao, Resolution Professional (RP) of M/s Three C Properties Pvt. Ltd.

(Corporate Debtor / CD), to deposit an amount of Rs. 335,79,76,289/- in terms of the prevailing policy of NOIDA before physical possession of Plot No. H-10, Sector 98, Noida (subject plot) is handed over to the Corporate Debtor.

2. The land in question was initially leased in favour of a consortium comprising M/s Vistar Construction Pvt. Ltd. and others. Subsequently, for implementation of the project namely "Lotus Isle", a Special Purpose Vehicle, namely M/s Three C Properties Pvt. Ltd., was incorporated. Thereafter, a registered Lease Deed dated 26.04.2011 was executed between NOIDA and the Corporate Debtor in respect of the subject plot admeasuring 24,000 sq. meters for a period of 90 years. After subdivision, the land remaining with the Corporate Debtor measured 10,240 sq. meters.

3. It is the case of the Applicant that owing to persistent defaults in payment of instalments and lease rent, demand notices dated 12.01.2022 and 16.03.2022 were issued calling upon the Corporate Debtor to clear outstanding dues. Since the dues remained unpaid, NOIDA cancelled the allotment vide letter dated 25.04.2022 and thereafter took possession of the subject plot on 22.08.2022.

4. Aggrieved by the cancellation, the Corporate Debtor preferred a revision petition under Section 41(3) of the Uttar Pradesh Urban Planning and Development Act, 1973 read with Section 12 of the Uttar Pradesh Industrial Area Development Act, 1976. During the pendency of the said proceedings, CIRP against the Corporate Debtor commenced on 09.08.2024.

5. Thereafter, the Principal Secretary, Government of Uttar Pradesh, vide order dated 30.08.2024, set aside the cancellation and directed restoration of the plot in favour of the Corporate Debtor[1]. It was stated:

> *"That the dues of the Authority will have to be re-determined. In such a situation, the cancellation order dated 25.04.2022 by the Authority is revoked and the plot is restored in favour of the institution without any restoration fee."*

Thus, the operative portion of the said order, in substance, records that the dues of the Authority were required to be re-determined and, accordingly, the cancellation order dated 25.04.2022 stood revoked and the plot was restored in favour of the institution without restoration fee.

6. Pursuant thereto, this Adjudicating Authority, vide order dated 06.03.2025, directed NOIDA to complete the necessary formalities and hand over possession of the subject plot to the Resolution Professional within two weeks, while specifically clarifying that the liability of the Corporate Debtor to pay dues in terms of the State Government's order would continue to subsist.

7. The Applicant contends that restoration of the lease cannot be effected dehors the prevailing policy of NOIDA governing commercial properties. It is submitted that under the applicable policy, namely the Policies and Procedures for Commercial Property Management[2], restoration is permissible only upon payment of restoration charges, penalties, interest, time-extension

[1] Annexure A-3, Page 106, Para 36

[2] Annexure A6, Page 124-142 of the application

charges and other dues as applicable. The relevant extract of the Policy is reproduced herein below for the ease of reference:

> *"M. CANCELLATION / COMMERCIAL PLOT/SHOP RESTORATION OF the Commercial Plot/Shop*
>
> *The Authority can exercise the right of cancellation in case of breach of terms and conditions of allotment/lease deed/HPTA/Transfer deed. In the event of cancellation, 30% of premium together with lease rent and interest thereon will be forfeited and balance available, if any, will be refunded without interest. However, the Chief Executive Officer/or any other officer authorised by him can restore the allotment subject to the provisions and payment as mentioned in office order dated 14.03.97 as per detail given below:-*
>
> 1. *A) The representation against the cancellation of commercial property shall be submitted by the allottee to the commercial department of the authority within 90 days from the date of the cancellation letter. Along with the representation, an affidavit shall also be submitted, presenting the effective measures/time schedule for rectifying the violation committed by the allottee.*
>
>   *(B) In the event of restoration, a restoration charge shall be payable which is 10 percent of the allotment rate of the commercial property.*
> 2. *In the event of reinstatement, in addition to the restoration charge, the allottee shall make payment of penalties, interest, time extension charges, etc., at that time as per the rules of the authority.*

Thus, according to NOIDA, unless the Resolution Professional clears the outstanding dues computed in accordance with such policy, possession of the subject plot cannot be handed over.

8. The Resolution Professional, on the other hand, submits that repeated requests were made to NOIDA for handing over possession in view of the State Government's order dated 30.08.2024 and the order of this Adjudicating

Authority dated 06.03.2025. It is also contended that NOIDA was requested to file its claim in the CIRP and Form-B was duly shared, but NOIDA neither filed any claim nor handed over possession.

9. NOIDA, in rejoinder, submits that this Adjudicating Authority had already observed that the allottee remained liable to pay the outstanding dues and, therefore, unless such dues are discharged, possession cannot be delivered. It is further submitted that the amount of Rs. 335,79,76,289/- has been computed pursuant to the order dated 06.03.2025 read with the State Government order dated 30.08.2024, though according to NOIDA, the total dues without the benefit of the said Government order would be substantially higher. Reference is made to *New Okhla Industrial Development Authority vs Abhishek Anand,*[3] wherein it was stated that the policy of applicant cannot be overridden by the provisions of IBC.

10. We have heard learned counsel for the parties and perused the material available on record. It is not in dispute that prior to commencement of CIRP, NOIDA had cancelled the allotment vide letter dated 25.04.2022 and had taken possession of the subject plot on 22.08.2022. It is equally undisputed that the said cancellation was subsequently interfered with by the State Government in revision vide order dated 30.08.2024.

11. A plain reading of the said order dated 30.08.2024 makes it abundantly clear that the outstanding dues of NOIDA were not waived or extinguished. What was directed was only re-determination of dues. The order cannot be construed as absolving the Corporate Debtor of its obligation to clear the dues

[3] Comp. Appeal (AT) (INS) No. 998 of 2021

payable under the Lease Deed and the governing policy. The only modification contemplated was with respect to the quantum of dues, which required fresh determination.

12. The said position also stands reinforced by the order dated 06.03.2025 passed by this Adjudicating Authority, wherein it was specifically clarified that the liability of the Corporate Debtor to pay dues in terms of the State Government's order would continue to subsist. Thus, restoration of the plot and handing over of possession cannot be treated as unconditional or independent of such financial obligations.

13. We are, therefore, of the considered view that payment of lease rent, instalments and other dues lawfully determined by NOIDA remains a condition precedent attached to restoration of the allotment. In the absence of such payment, NOIDA cannot be compelled to hand over possession of the subject land as a matter of right.

14. However, the present Application seeks a positive direction from this Adjudicating Authority compelling the Resolution Professional to deposit a sum of Rs. 335,79,76,289/- before possession is handed over. In our considered view, issuance of such a direction would not be appropriate.

15. The question whether such payment ought to be made and whether making such payment would advance the objective of resolution of the Corporate Debtor, is an issue involving commercial prudence. Such matters squarely fall within the domain of the Committee of Creditors in exercise of its commercial wisdom.

16. Equally, the Resolution Professional cannot contend that possession must be handed over unconditionally while disregarding the subsisting liability of the Corporate Debtor and the governing policy framework of NOIDA under which restoration is to operate.

17. The contention of the Resolution Professional that NOIDA ought to have filed its claim before the Resolution Professional also does not carry the matter further in the facts of the present case. As on 25.04.2022, the insolvency commencement date, possession of the subject plot was admittedly not with the Corporate Debtor, having already been taken over by NOIDA pursuant to cancellation. The present controversy is, therefore, not a simple claim adjudication under CIRP, but concerns the conditions subject to which restoration and repossession of the plot may be effected pursuant to the State Government's order.

18. In such circumstances, the proper course would be to leave the issue of payment of re-determined dues to the commercial consideration of the Committee of Creditors. If the CoC, in its commercial wisdom, considers it appropriate to approve such payment so as to secure restoration and possession of the subject plot for the benefit of the resolution process, it may do so in accordance with law.

19. It is clarified that in the event the dues, as lawfully re-determined by NOIDA, are paid, the consequential steps for restoration and handing over of possession shall follow in terms of the State Government order dated 30.08.2024 and the applicable policy framework of NOIDA.

20. Accordingly, IA/1488/ND/2025 is disposed of with a direction that the Resolution Professional shall place the issue of payment of dues to NOIDA before the Committee of Creditors for its consideration. The CoC shall take an appropriate decision in accordance with law and in exercise of its commercial wisdom.

21. The Application stands disposed of in the above terms.

IA-1749/ND/2025:

The present Application has been filed by Mr. Devendra Umrao, Resolution Professional (Applicant / RP) of M/s Three C Properties Private Limited (Corporate Debtor / CD) under Section 60(5) read with Section 14 of the Insolvency and Bankruptcy Code, 2016 (IBC) read with Rule 11 of the National Company Law Tribunal Rules, 2016, seeking directions against Kotak Mahindra Bank (Respondent No.1 / R1) for removal of the lien/debit freeze marked on the bank account of the Corporate Debtor pursuant to an attachment order issued under the signature of the Sub-Divisional Magistrate, Dadri, Gautam Budh Nagar, Uttar Pradesh (UP Authority / Respondent No.2) for recovery of dues pertaining to RERA authorities.

2. It is the case of the Applicant that the UP Authority, vide Letter No. 51/Case No.-Recovery/2023-24 dated 17.07.2023, initiated recovery proceedings for an amount of Rs. 9,38,92,711 along with applicable interest and directed attachment of all bank accounts of the Corporate Debtor in terms of powers conferred under section 173, Rule 153 of the Uttar Pradesh Revenue Code, 2006. Subsequently, CIRP against the Corporate Debtor commenced on 09.08.2024 and moratorium under Section 14 of the Code came into operation. Upon examining public records, the Resolution Professional came to know that the Corporate Debtor was maintaining a bank account with Respondent No.1. Accordingly, vide email dated 04.09.2024, the RP requested the Bank for change of authorised signatory and disclosure of all bank accounts of the Corporate Debtor.

3. Respondent No.1, vide email dated 24.09.2024, confirmed that the Resolution Professional had been recorded as the authorised signatory. However, thereafter, vide communication dated 23.10.2024, the Bank informed that the said account had been placed under debit freeze pursuant to the attachment order dated 17.07.2023 issued by the UP Authority, and a lien to the extent of Rs. 9,38,92,711 along with interest had been marked.

4. The Applicant has claimed that despite intimation to both Respondent No.1 and Respondent No.2 regarding the moratorium imposed under Section 14 of the Code and repeated requests for removal of the debit freeze, no action was taken and hence the present IA has been filed.

5. In support of the relief sought, reliance has been placed on the judgment of the Hon'ble Supreme Court in Principal Commissioner of Income Tax v. Monnet Ispat and Energy Ltd.[4], to contend that the IBC is a complete Code having overriding effect over all other laws by virtue of Section 238. It is further argued that once moratorium under Section 14 is imposed, no proceedings for recovery can continue against the Corporate Debtor. Reliance has also been placed upon the decisions in Hemant Mehta, Resolution Professional v. Assistant Commissioner of State Tax & Ors.[5] and Pinakin Shah, Liquidator of M/s Brew Berry Hospitalities Private Limited v. Assistant Commissioner of State Tax & Anr.[6], wherein it was held that this Adjudicating Authority, in exercise of jurisdiction under Section 60(5), can direct de-freezing of bank

[4] Company Appeal (AI)(Ins) No. 543 of2017
[5] Company Appeal (A])(Ins) No. 328 of 2022
[6] COMPANY APPEAL (AT) (INS) NO. 32 OF 2021

accounts and lifting of attachments imposed by statutory authorities where such action violates the moratorium.

6. Respondent No.1, in its reply, submits that it has no independent claim or interest against the Corporate Debtor and that the debit freeze was not initiated by the Bank suo motu, but strictly in compliance with the attachment order dated 17.07.2023 passed by the UP Authority, which is a statutory authority. It is submitted that the Bank is merely complying with the directions of a competent authority exercising statutory powers and cannot sit in appeal over such order. Unless the said order is modified, stayed, or set aside by a competent forum, the Bank is bound to maintain the debit freeze.

7. We have heard the learned counsel for the parties and perused the material available on record. The principal issue for consideration is whether this Adjudicating Authority, in exercise of jurisdiction under Section 60(5) of the Code, can direct de-freezing of the bank account where such freeze is a consequence of an attachment order, passed prior to commencement of CIRP, by a statutory authority under an independent enactment.

8. Upon consideration, we find that the debit freeze imposed on the bank account is not an independent act of Respondent No.1, but consequence of the attachment order, passed prior to the commencement of CIRP, by the UP Authority in exercise of powers under the Uttar Pradesh Revenue Code, 2006 for recovery of dues.

9. The Uttar Pradesh Revenue Code, 2006 is a self-contained statute providing a complete mechanism for adjudication, recovery and redressal. It

is a settled principle that where a statute provides a complete machinery for adjudication and appeal, the aggrieved party must avail remedies under that statute and cannot bypass the same by invoking the residuary jurisdiction of this Adjudicating Authority under the IBC.

10. In this regard, reliance is appropriately placed on the judgment (dated 24.02.2026) of the Hon'ble Supreme Court in S. Rajendran v. Deputy Commissioner of Income Tax (Benami Prohibition) & Ors.[7], wherein it was held that when a statute provides a hierarchy of adjudicatory mechanisms, an aggrieved party, even if it is a Resolution Professional or Liquidator, must exhaust remedies under that special statute and that the IBC cannot be converted into a parallel appellate forum to examine the validity of attachment orders passed by competent authorities under specialised enactments.

11. The Hon'ble Supreme Court further clarified that the moratorium under Section 14 is intended to protect the Corporate Debtor against actions by creditors seeking recovery of debts and enforcement of security interests. However, where the action is in the nature of a sovereign or statutory function undertaken under an independent enactment, such proceedings do not automatically fall within the embargo of Section 14. The Apex Court summarised the concurrent findings of NCLT and NCLAT thus:

> 13.1 Firstly, both forums proceeded on the premise that the Benami Act, is a special legislation constituting a self-contained code. The *NCLAT, in particular, placed heavy reliance on its earlier decision in Kiran Shah, Resolution Professional of KSL and Industries Ltd. v. Enforcement Directorate*[8] *relating to Prevention of Money Laundering Act, 2002, to hold*

[7] Civil Appeal No. 7140 of 2022 – date of judgment is 24 Feb 2026
[8] *2022 SCC OnLine NCLAT 2*

that ***when a statute provides hierarchy of adjudicatory mechanisms, namely, the Adjudicating Authority, the Appellate Tribunal, and the High Court, an aggrieved party, even if it is a liquidator or RP, must exhaust the remedies in that special statute.*** *It is further held that* ***IBC cannot be converted into a parallel appellate forum to review the validity of attachment orders passed by a competent authority under a specialised enactment, as doing so would render the appellate machinery*** *of the Benami Act* ***otiose.***

13.2 Secondly, regarding the applicability of the moratorium, the Tribunals drew a sharp distinction between actions initiated by creditors for the recovery of dues and sovereign actions initiated by the State for the confiscation of tainted property. The NCLT and NCLAT held that ***the protection under Section 14 of the IBC is designed to shield the CD from the depletion of assets by individual creditors seeking to enforce security interests or recover debts****. Conversely, an attachment under the Benami Act constitutes a sovereign function exercised in the public interest to prohibit and punish benami transactions. Since the Benami proceedings are not in the nature of debt recovery but rather a statutory forfeiture of property held illegally, the moratorium under the IBC does not act as an automated stay against such proceedings.*

13.3 Thirdly, the impugned orders held that the residuary jurisdiction conferred upon the NCLT under ***Section 60(5) of the IBC is not all-pervasive****. While Section 60(5)(c) empowers the NCLT to decide questions of law or fact "arising out of or in relation to" the insolvency resolution,* ***this jurisdiction does not extend to reviewing administrative or quasi-judicial orders passed under independent public law statutes****. The NCLAT opined that determining whether a property is "benami" or not requires a trial on the pedigree of the title and the source of funds, which falls exclusively within the domain of the AA under the Benami Act. Consequently, a challenge to the legality of the attachment order is not a question "arising out of" the insolvency, but one arising dehors the insolvency, and thus falls outside the NCLT's jurisdictional competence.*

[emphasis supplied]

12. In para 20.1 of the judgment, the Hon'ble Supreme Court noted:

In a recent decision, this Court had the occasion to examine the competing application of two special statutes. Analysing the position of law, in State Bank of India v. Union of India[9] *summarised the principles to be followed*

[9] 2026 INSC 153

in case there is a conflict between two statutory regimes. The relevant paragraphs are as under:

"64. When confronted with a situation where two statutory enactments appear to operate in conflict, this Court is enjoined to interpret the concerned legislations in a manner that gives effect to both, to the extent such reconciliation is reasonably possible. Only where such harmonious construction is not feasible does the Court proceed to determine which enactment must prevail. Conflicts of this nature may arise either between a general statute and a special statute, or between two statutes each possessing a special character. Over time, this Court has evolved settled principles to guide the resolution of such inter se inconsistencies which are as;

(I) Where two enactments are attracted to the same factual matrix, the initial inquiry must be directed towards determining whether either statute is general or special in relation to the subject-matter in issue. This ***determination is not made in the abstract, but by examining the dominant subject-matter of the statute, viewed through the prism of its legislative intent****. An enactment may, depending on the context, operate as a general law for certain purposes and as a special law for others.* ***The optimal outcome is achieved where each statute is allowed to function within its designated sphere, without trenching upon the field occupied by the other***[10]*. Bearing this in mind, the provisions of both enactments must be scrutinised to assess whether they can be construed in a manner that permits harmonious construction.*[11]

(II) Where it is evident that one enactment is intended to function as a special law governing a defined subject, while the other is a general law operating in a broader or overlapping domain, the established principle embodied in the maxim generalia specialibus non derogant applies. In such circumstances, the general provision must give way to the special provision.[12]

[10] LIC of India v. DJ Bahadur, (1981) 1 SCC 315.
[11] Gobind Sugar Mills Ltd. v. State of Bihar, (1999) 7 SCC 76
[12] State of Gujarat v. Patel Ramjibhai Danabhai, (1979) 3 SCC 347

(III) In an eventuality where the contestation is between two special enactments, both having non-obstante clauses, the general rule is that later enactment must prevail over the earlier one.[13]

(IV) However, this is not an absolute rule. ***In the event of a conflict between special acts, the dominant purpose of both statutes would have to be analyzed to ascertain which one should prevail over the other.*** *The primary effort of the interpreter must be to harmonise, not excise.*[14] *Hence, where both the enactments have the non obstante clause then in that case, the proper perspective would be that one has to see the subject and the dominant purpose for which the special enactment was made and in case the dominant purpose is covered by that contingencies, then notwithstanding that the Act might have come at a later point of time still the intention can be ascertained by looking to the objects and reasons.*[15]*"*

[emphasis supplied]

13. The Hon'ble Court also referred to its judgment in Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta & Ors.16, wherein it was held that while disputes arising directly from or in relation to the insolvency resolution process can be adjudicated under Section 60(5), disputes arising dehors the insolvency process must be agitated before the competent forum prescribed under the relevant statute. It was ruled:

"74. Therefore, we hold that the RP can approach NCLT for adjudication of disputes that are related to the insolvency resolution process. However, ***for adjudication of disputes that arise dehors the insolvency of the corporate debtor, the RP must approach the relevant competent authority. For instance, if the dispute in the present matter related to the non-supply of electricity, the RP would not have been entitled to invoke the jurisdiction of NCLT under IBC.*** *However, since the dispute in the present case has arisen solely on the*

[13] Sarwan Singh v. Shri Kasturi Lal, (1977) 1 SCC 750
[14] S Vanitha v. Deputy Commissioner, Bengaluru Urban District & Ors. (2021) 15 SCC 730
[15] Bank of India v. Ketan Parekh, (2008) 8 SCC 148
[16] (2021) 7 SCC 209

ground of the insolvency of the corporate debtor, NCLT is empowered to adjudicate this dispute under Section 60(5)(c) of IBC."

[emphasis supplied]

14. In para 20.6, the Apex Court noted:

What emerges from the foregoing analysis is that the ***jurisdiction of authorities under IBC cannot be expansively construed so as to trench upon fields that are founded in public law domain****. Where the subject matter of the* ***dispute pertains to the exercise of sovereign statutory power, particularly in relation to determination of legality of title, attachment, or confiscation and vesting thereof, the adjudicatory fora under the IBC must necessarily yield to the specialised mechanism created by such statute****.*

[emphasis supplied]

15. That this judgment is not limited to instances where Benami Act is invoked, but its ratio has wide spread application, is obvious from the fact that the Hon'ble Supernew Court also referred to apparent conflict of the IBC with various telecommunication laws such as the Telegraph Act, Wireless Telegraphy Act, TRAI Act and also Mines and Minerals (Development and Regulation) Act (MMDR Act). Reference was made to the judgment in Embassy Property Developments (P) Ltd. v. State of Karnataka17, where the Hon'ble Court had held that where the corporate debtor has to exercise a right that falls outside the purview of IBC, especially in the realm of public law, the Resolution Professional cannot short-circuit the statutory mechanism and invoke Section 60(5) to seek adjudication before NCLT. It was noted:

"29. Therefore as rightly contended by the learned Attorney General, the decision of the Government of Karnataka to refuse the benefit of deemed extension of lease, is in the public law domain and hence the correctness of the said decision can be called into question only in a superior court which is vested with the power of judicial review over administrative action. The ***NCLT, being a creature of a special statute to discharge***

[17] (2020) 13 SCC 308

certain specific functions, cannot be elevated to the status of a superior court having the power of judicial review over administrative action*.....*

37..... But a ***decision taken by the Government or a statutory authority in relation to a matter which is in the realm of public law, cannot, by any stretch of imagination, be brought within the fold of the phrase "arising out of or in relation to the insolvency resolution" appearing in clause (c) of sub-section (5)****.....*

40. If NCLT has been conferred with jurisdiction to decide all types of claims to property, of the corporate debtor, Section 18(1)(f)(vi) would not have made the task of the interim resolution professional in taking control and custody of an asset over which the corporate debtor has ownership rights, subject to the determination of ownership by a court or other authority. ***In fact an asset owned by a third party, but which is in the possession of the corporate debtor under contractual arrangements, is specifically kept out of the definition of the term "assets" under the Explanation to Section 18.*** *This assumes significance in view of the language used in Sections 18 and 25 in contrast to the language employed in Section 20. Section 18 speaks about the duties of the interim resolution professional and Section 25 speaks about the duties of resolution professional. These two provisions use the word "assets", while Section 20(1) uses the word "property" together with the word "value". Sections 18 and 25 do not use the expression "property". Another important aspect is that under Section 25(2)(b) of the IBC, 2016, the resolution professional is obliged to represent and act on behalf of the corporate debtor with third parties and exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial and arbitration proceedings. Sections 25(1) and 25(2)(b) reads as follows:*

"25. Duties of resolution professional.—(1) It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.

(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions:

*(a) ****

(b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial and arbitration proceedings;"

This shows that wherever the corporate debtor has to exercise rights in judicial, quasi-judicial proceedings, the resolution professional cannot short-circuit the same and bring a claim before NCLT taking advantage of Section 60(5).

41. ***Therefore in the light of the statutory scheme as culled out from various provisions of the IBC, 2016 it is clear that wherever the corporate debtor has to exercise a right that falls outside the purview of the IBC, 2016 especially in the realm of the public law, they cannot, through the resolution professional, take a bypass and go before NCLT for the enforcement of such a right."***
[emphasis supplied]

16. Thus, the principle laid down in Rajendran (supra) are applicable to the case at hand. Though framed as a prayer for "de-freezing" of the bank account, the substance of the relief sought is removal of the consequence flowing from the attachment order dated 17.07.2023 passed by the UP Authority. The debit freeze imposed by Kotak Mahindra Bank is not an independent act of the Bank; it is merely compliance with the attachment order issued by the statutory authority. Therefore, unless the attachment order itself is modified, stayed, or set aside by the competent authority/forum under the relevant statute, no direction can be issued to the Bank to act contrary to that order. The attachment order was passed on 17.07.2023, much prior to commencement of CIRP on 09.08.2024. The recovery proceedings were initiated independently for recovery of RERA dues and do not arise from CIRP. Thus, the dispute is not generated by insolvency proceedings but is an independent statutory action existing prior to insolvency and falls outside the residuary jurisdiction of Section 60(5).

17. In Rajendran (supra), the Hon'ble Supreme Court examined whether the Liquidator could challenge attachment orders passed under the Prohibition of Benami Property Transactions Act, 1988 before NCLT/NCLAT under Section 60(5) of IBC. The Hon'ble Court held that the Benami Act is a self-contained code providing a complete adjudicatory and appellate framework for identification, attachment, adjudication and confiscation of benami property. Where a statute creates a complete machinery for adjudication and redressal, the aggrieved party must avail remedies under that statute itself. The Hon'ble Supreme Court categorically held that IBC cannot be converted into a parallel appellate

forum to examine validity of attachment orders passed by competent authorities under specialised enactments. Doing so would render the appellate machinery under such statutes otiose. This principle applies with equal force to recovery proceedings initiated under the Uttar Pradesh Revenue Code, where the Sub-Divisional Magistrate exercises statutory powers for attachment and recovery of dues. The RP cannot bypass remedies available under that statute and seek indirect nullification of the attachment before NCLT.

18. The Hon'ble Supreme Court in Rajendran (supra), relying on Gujarat Urja Vikas Nigam Ltd. (supra) and Embassy Property Developments (supra), held that Section 60(5) jurisdiction is confined to matters "arising out of" or "in relation to" insolvency resolution. Where the dispute arises dehors the insolvency process and concerns actions taken under an independent public law statute, the Resolution Professional must approach the competent authority under that statute. In the present case, the attachment order was passed on 17.07.2023, much prior to commencement of CIRP on 09.08.2024. The recovery proceedings were initiated independently for recovery of RERA dues and do not arise from CIRP. Thus, the dispute is not generated by insolvency proceedings but is an independent statutory action existing prior to insolvency. It therefore falls outside the residuary jurisdiction of Section 60(5).

19. Besides, moratorium under Section 14 does not automatically invalidate statutory attachment. In Rajendran (supra), the Supreme Court drew a distinction between creditor recovery proceedings and sovereign/statutory actions initiated under independent enactments. The Court held that Section 14 is intended to protect the Corporate Debtor from depletion of assets by creditors enforcing debts, but does not automatically render statutory proceedings under special enactments void, particularly where such proceedings are undertaken by competent authorities in exercise of statutory functions. The same principle applies here. The attachment is not a unilateral act by a private creditor but a statutory recovery action initiated through the office of the Sub-Divisional

Magistrate in exercise of statutory powers. Whether such proceedings are liable to be stayed, modified or lifted must be determined by the competent authority under that framework and not by bypassing it through Section 60(5).

20. Moreover, Respondent No. 1 cannot be faulted for complying with a statutory order. It has no independent claim against the Corporate Debtor and no beneficial interest in maintaining the freeze. The Bank is merely a complying third party acting under a statutory attachment order issued by a competent authority. As held in Rajendran (supra), no direction can be issued to a third party to ignore or violate a subsisting order of a competent statutory authority merely by invoking IBC jurisdiction. Unless the attachment order is vacated by the appropriate forum, the Bank is bound to comply.

21. Also, the availability of alternate statutory remedies bars invocation of Section 60(5). The residuary jurisdiction under Section 60(5), though wide, is not all-encompassing. It cannot be invoked to examine the legality or correctness of orders passed by competent authorities under separate statutory regimes, particularly where such statutes provide their own appellate or adjudicatory mechanism. The Uttar Pradesh Revenue Code, 2006 provides a complete mechanism for challenge, modification, and redressal against recovery proceedings and attachment orders. The attachment order is appealable/revisable within the revenue hierarchy under the said enactment. Where such alternate remedies exist, the residuary jurisdiction under Section 60(5) cannot be invoked as a substitute. This is the exact rationale of Rajendran (supra) : special statutory forums must be approached first; IBC jurisdiction is not a substitute for appellate remedies under other enactments. The Resolution Professional must therefore seek relief before the competent statutory authority/forum in accordance with law.

22. Section 32A of the IBC also does not come to the aid of the Applicant. Section 32A is event-based and is triggered only upon fulfilment of

specified conditions, inter alia approval of a resolution plan or completion of liquidation sale to an unconnected third party. It does not retrospectively nullify attachments made prior to commencement of CIRP nor convert amounts already attached into free assets of the Corporate Debtor.

23. In conclusion, the judgment in *S. Rajendran (supra)* is directly applicable because the bank account freeze is a consequence of a statutory attachment order passed under an independent enactment; the real grievance concerns continuance of that attachment; the dispute arises dehors the insolvency process and predates CIRP; Section 60(5) cannot be used to review or nullify orders passed by competent statutory authorities; the Bank is only complying with a lawful attachment order; and the Resolution Professional has adequate remedies before the competent forum under the relevant statute.

24. In view of the foregoing discussion, we are of the considered opinion that the grievance of the Resolution Professional substantially relates to the validity and continuance of the attachment order passed by the UP Authority. Such issue arises dehors the CIRP and therefore falls outside the jurisdictional competence of this Adjudicating Authority under the IBC. Consequently, no direction can be issued to Respondent No.1 to de-freeze the bank account in contravention of the subsisting order passed by the competent statutory authority. The Bank, being only a complying third party, cannot be faulted for maintaining the freeze.

25. Accordingly, the present Application is disposed of with liberty to the Resolution Professional to seek appropriate relief before the competent forum under the applicable statutory framework under the Uttar Pradesh Revenue Code, 2006.

Sd/-
(REENA SINHA PURI)
MEMBER (T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)