IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.303
IA/803(AHM)2025 in CP(IB) 206 of 2018

Proceedings under Section 60(5) of the IBC,2016

IN THE MATTER OF:

M/s.Multimet Tech Fab Private Limited ....**Applicant**
V/s
Mr.Arvind Gudana Liquidatior of Reagent Granito India Limited ....**Respondent**

Order delivered on: 05/06/2026

Coram:
Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet.

Sd/-
DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-
CHITRA HANKARE
MEMBER (JUDICIAL)

AD/SJ/AP

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, COURT-II,
AHMEDABAD

I.A. No. 803/AHM/2025

In

CP (IB) 206 OF 2018

[*Under Section 60 (5) of Insolvency & Bankruptcy Code, 2016*]

In the matter of :

Multimet TechFab Pvt. Ltd
Plot No. 57/7/A,B/h. Amrut Spintex
Nr. New Arvind Mill,
Khatraj Chokdi, Tal. Kalol
Dist. Gandhinagar- 382721, Gujarat

... Applicant

Versus

Mr. Arvind Gudana (Liquidator of Reagent Granito India Ltd.)
307, Ashirwad Paras,
Corporate Road, Near Prahlad Nagar Garden,
Satelite,
Ahmedabad- 380015, Gujarat

... Respondent

Order pronounced on 05.06.2026

Coram:

MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

MR. VELAMUR G. VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)

Appearance:

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For the Applicant	:	Mr. Deven Parikh, Sr. Adv and Mr. Nirav P. Shah, Adv.
For Respondent	:	Mr. Ravi Pahwa, Adv.
For the State Tax	:	Ms. Ritu Guru, Adv.

JUDGMENT

1. The present application is filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter to be referred as "IBC") by the Applicant inter-alia seeking following prayers:

    i. *To pass order directing the liquidator to accept remaining part payment of Rs. 12,09,00,000/- towards bid price without interest and further issuance of sale certificate to the present applicants;*

    ii. *To quash and set aside SCN dated 12.06.2025 and order dated 25.06.2025;*

    iii. *In the alternative, To direct respondent Liquidator to refund the amount of Rs.3,96,00,000/- deposited by present auction purchaser till date along with applicable interest;*

2. The Applicant submits that they had participated in E-Auction and purchased the immovable property (Land and Building) at a bid price of Rs. 16,05,00,000/-. An Earnest Money Deposit amounting to Rs. 1,60,00,000/- was also paid vide demand draft dated 29.11.2021. It is stated that they had

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further paid an amount of Rs. 1,61,00,000/- within 15 days as prescribed under the conditions of auction and the Minutes of 5th meeting of Stakeholder Consultation Committee (hereinafter to be referred as "SCC") notes the aforesaid payment details. Pursuant, to this upon enquiring with the revenue authority, it was found that the State VAT Department had registered charge in the land records of M/s. Regent Granito India Ltd. The outstanding VAT dues were more than Rs. 252.00 Crores, following which the aforesaid facts were brought to the notice of Liquidator and applicant requested the liquidator to remove the charge from revenue records so as to transfer the land free from all encumbrances.

3. The liquidator had filed Special Civil Application No. 17131 of 2022 before the Hon'ble High Court of Gujarat for removal of charge and for completion of sale process. It is further stated that liquidator in the writ petition has specifically stated that the applicant in the present case is not ready to pay the balance sale consideration until the encumbrances on the subject lands are removed.

4. It is submitted that in the 7th meeting of the SCC held on 26.06.2024, it was discussed that the interim order passed by the Hon'ble High Court directing Sales Tax Department to

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consider to release the charge is not implemented. Therefore, CA 1 /2023 is filed by the liquidator for compliance of the order of the Hon'ble High Court of Gujarat. The representative of SBI gave the suggestions/ advice that the auction purchaser should deposit the balance amount at the earliest but not more than 20 days and the RP will issue letter to the auction purchaser stating that assets can be transferred at later stage.

5. It is submitted that the liquidator had sent an email dated 11.07.2024 to the Applicant where he had requested the Applicant to make full payment of sales consideration and further requested to confirm that the auction purchaser is willing to pay entire consideration for the e-auction sale. The applicant replied vide letter dated 13.07.2024 in which the liquidator was requested to immediately get the charge removed and get the property free from all encumbrances, pursuant to which the applicant will pay outstanding amount.

6. It is submitted that the liquidator again addressed email dated 09.08.2024 in which the applicant was directed to make full payment towards consideration of sale of assets of Regent Granito within 15 days i.e. on or before 23.08.2024 failing which further action for termination of contract may be taken.

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The applicant replied to the email dated 09.08.2024 through letter dated 20.08.2024 in which they have reiterated that they are ready and willing to make full payment within 15 days subsequent to removal of charge of VAT authority.

7. It is submitted that Hon'ble High Court of Gujarat had passed an order dated 28.04.2025 directing the State to remove the charge and further directing the liquidator to deposit the amount of Rs 15,40,12,000/- with the court immediately upon completion of auction and receiving of balance consideration by sale and hand over of secured assets to the auction purchaser. The interim order was brought to the notice of the applicant by liquidator vide email dated 01.05.2025 and applicant was requested to make the balance payment with interest. Pursuant, to this applicant replied on 02.05.2025 that they will pay outstanding amount of Rs. 12,09,00,000/- within 10 to 15 days once VAT department removes charge and the property is free from all encumbrances.

8. It is submitted that liquidator further addressed email dated 29.05.2025 wherein he requested to make the payment within interest. Pursuant, to this applicant replied vide email dated 05.06.2025 that no interest is payable as the liquidator could not get the charge removed from the property. It is further

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stated that in view of the aforesaid circumstances 12th Meeting of SCC was held on 11.06.2025. A show cause notice dated 12.06.2025 was issued for forfeiting the part payment of sale consideration and the applicant was required to file reply within 2 days of issuance of show cause notice. As per the request for extension of time for filing reply, time was extended till 28.06.2025

9. It is submitted that Liquidator vide letter dated 25.06.2025 have informed that they have forfeited the part payment of Rs.3,96,00,000.00/- made by the applicant. It is further stated that it is the duty of liquidator for ensuring that the assets of the liquidated company are sold free from all encumbrances. Since the liquidator had failed to perform his duty in the contract, the applicant is not at fault and they are not liable to pay interest for delay.

10. It is submitted that land is sold for price of Rs. 16.05 Crore . The outstanding liability of VAT is to the tune of Rs. 252.75 Crore. With such a huge liability over the property, not a single businessman will dare to purchase land being put in auction. The Liquidator has also filed writ petition with the Hon'ble Gujarat High Court for removal of charge. However, as the charge over the property was not removed, the delay has

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occurred and thus, applicant is not liable to pay any interest. Even during the 7th SCC meeting dated 26.06.2024 the applicant were advised to deposit balance amount without interest. Hence the interest is first time demanded from the present applicants after passage of more than 3 years from the date of auction. As per the Section-51 of the Contract Act, it is a case of reciprocal promises to be performed. Liquidator is required to perform his part of promise firstly and he cannot insist for performance of auction purchasers promise before performance of his promise to provide land free from all encumbrances.

11. It is submitted that interest is payable if anyone has benefitted out of any money not paid though the same were due and payable. The applicant have incurred huge opportunity loss by investing approx. Rs. 3.96 Cr. in the present auction process. However, by investing in the present auction and waiting for approximately 42 months, they could not utilise their funds and resources properly. It is further stated when auction took place, there was no bridge on the highway near the auction premises but subsequently new bridge is constructed on the highway, further restricting movement of large trailers and containers to the factory premises. The premises falls within

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500 meters areal distance of Hajipur Village and as per various revised criteria and norms fixed by the GPCB, the permission to start factory premises cannot be obtained from GPCB if industry is falling within 500 meter areal distance. The value of the property has deteriorated over time and the premises now cannot be used for the purpose of establishing large scale industry and demand of interest over and above the sale price will result in breaking back of the auction purchaser for no fault on his part.

12. It is submitted that as per the terms of tender no interest is payable beyond a period of 180 days. The notice is issued for forfeiture of entire amount of Rs. 3.96 Cr. deposited till date by the Applicant. It is submitted that even as per the terms of tender, only EMD amount can be forfeited in case of non-payment by the auction purchaser and any other amount deposited is required to be refunded back to the auction purchaser along with applicable interest.

13. The Respondent/ Liquidator in its affidavit -in-reply state that Applicant was one of the bidder who failed to make payment of balance consideration within a period of 90 days as per second proviso to Clause 1(12) under Schedule-1 of IBBI (Liquidation Process) Regulations, 2016. The bare perusal of

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the regulation makes it clear that it is mandatory in nature. Therefore, at the end of 90 days from the date of sale if the Successful Auction Purchaser has not made the balance payment, then, the sale shall stand cancelled. Applicant was declared as Successful Bidder on 2.12.2021 and the sale in favour of applicant was confirmed on 3.12.2021 and the 90 days period got over on 3.03.2022.

14. It is submitted that he had filed Special Civil Application No. 17131 of 2022 before the Hon'ble High Court for removal of charge of VAT Department and completion of sale process and while the writ petition was pending, the Respondent filed Civil Application No. 1 of 2023 seeking certain interim directions and that during the course of hearing, the Respondent undertook to deposit an amount of Rs. 15,40,12,000/- before the Hon'ble High Court immediately upon completion of auction and receiving of balance consideration by sale and hand over of secured asset. It is further stated that the Hon'ble High Court of Gujarat vide order dated 28.4.2025 passed in CA 1 of 2023 allowed the respondent to take money from the applicant and deposit the same before the registry of the Hon'ble High Court, However, till date, the applicant has

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not even remitted the principal balance amount as directed by the Hon'ble High Court.

15. It is submitted that on instructions of Committee of Creditors the respondent vide communication dated 25.6.2025 forfeited the EMD deposited by the applicant. In view of this, the respondent had relied upon decision in Potens Transmissions & Power Private Limited vs. Gian Chand Narang in Company Appeal (AT) (Ins) No.532 of 2022 passed by Hon'ble NCLAT in which it was held that non-compliance of second proviso would result into cancellation of sale. It further held that when the consequence of non-compliance is provided in the statute itself, the provision is necessary to be held to be mandatory.

16. It is submitted that as per the tender document, the intending bidders shall make their own independent inquiries regarding the encumbrances, title of property etc. It was represented that the liquidator/ secured creditor shall not be responsible for any third party claims, rights, etc. Further, it was also represented that the e-auction advertisement does not constitute and will not be deemed to constitute any commitment or any representation of the Bank and it was also stipulated that any delay in deposit of amount by Successful Bidder would entail forfeiture of 20% of the sale price or the

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amount already deposited and all these terms was agreed by the Applicant. Thus, the charge created by the VAT was created before the auction was held and therefore, it is deemed that the applicant being the successful bidder was aware about such charge and now the Applicant cannot take shelter of the charge of VAT department.

17. The State Tax Department had filed its affidavit-in-reply, stating that dues of the Corporate Debtor accrued from the year 2006-07 to 2017-18 under the GVAT Act, 2003 and CST Act, 1956 amounting to Rs. 73,88,49,549/- as on 15.01.2019 i.e. commencement of CIRP. The dues of the corporate debtor were prior to initiation of CIRP. The charge over the properties of Corporate Debtor was created on 12.07.2018 which came to be reflected in the revenue records. The liquidator of the CD had preferred Special Civil Application No. 17131 of 2022 before Hon'ble High Court of Gujarat seeking relief to issue writ of mandamus directing the respondent no. 2 to remove the attachment over the subject lands and cancel Mutation Entry No. 4388 dated 12.7.2018 recording the attachment in the revenue record and to stay execution, implementation and operation of the Mutation Entry No. 4388 dated 12.2.2018. It is submitted that on 17.02.2023 and 20.04.2024, the State

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Tax Department had filed affidavits before the Hon'ble High Court of Gujarat relying upon the provisions of Gujarat Value Added Tax Act, 2003 and has submitted that the charge under the Gujarat Value Added Tax Act, 2003 would prevail over the provisions contained in IBC, Code by virtue of the judgment passed by the Hon'ble Apex Court in State Tax Officer versus Rainbow Papers Limited. It is further stated that State Tax Department had also preferred Special Civil Application No. 8408 of 2022 before the Hon'ble High Court of Gujarat with a relief to consider the dues of the department as Secured Creditor under section 48 of GVAT Act and that the department should be treated at par with other secured creditor under section 53 of IBC. The Liquidator of the CD had filed an additional affidavit wherein he had stated that it undertake to deposit an amount of Rs. 15,40,12,000/- before the Hon'ble High Court immediately upon completion of auction and receiving of balance consideration by sale and handover of secured assets. Further, stated that the present SCA No 17131 of 2022 may be tagged along with pending SCA No. 8408 of 2021 and SCA No. 6706 of 2020 and that the aforesaid deposited amount will be subject to the outcome of the aforesaid SCA No.8408 of 2021 and SCA No.6706 of 2020,

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filed on behalf of the Respondent State and further the statutory time-limit to complete the liquidation process is extended till disposal of Special Civil Application No. 8408 of 2021 and Special Civil Application No. 6706 of 2020.

18. It is submitted that on 13.06.2025 the State Tax Department had passed an order that the attachment which was made on the property of the CD is removed with immediate effect and the said order was also informed to the Mamlatdar as well as to the Liquidator of the CD.

19. The Applicant in its rejoinder states that the delay has occurred due to charge of VAT department registered over the property and they had made representation dated 02.03.2022 to the liquidator in which it was specifically requested to clarify whether on full payment of tender amount, the property would be transferred in the name of auction purchaser or not. However, no reply was received from the liquidator. In view of filing of Special Civil Application before Hon'ble High Court of Gujarat, the period of 90 days is automatically extended.

20. The written submissions filed by all the parties have been perused along with the Judgments filed by the Applicant and Respondent and also heard both the counsels.

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21. First it is necessary to see the terms and conditions of the e-auction. The said document is also produced by the applicant. The relevant terms and conditions mentioned are as under:

E-auction is being held on "WHATEVER THERE IS" and "WITHOUT RECOURSE BASIS" ....

1. *The intending Bidders should make their own Independent inquiries regarding the encumbrances, title of property/ies put on auction and claims/rights/dues/affecting the property, prior to the submitting their bid. The e-Auction advertisement does not constitute and will not be deemed to constitute any commitment or any representation of the bank. The property is being sold with all the existing and future encumbrances whether know or unknown to the Seller. Liquidator/Secure creditor shall not be responsible in any of way for any third party claims/rights/dues.*

5. *It should be the responsibility of the interested bidders to inspect and satisfy themselves about the property before submission of the bid.*

8. *The Earnest money deposit (EMD) of the successful bidder shall retained towards part sale consideration and the EMD (in form of Demand Draft) of the unsuccessful bidders shall be refunded within 15 working days. The Earnest Money Deposit shall not bear any interest. The successful bidder shall have to deposit 10%(including EMD) of the sale price, within 15 days on acceptance of bid price by the Liquidator and the balance 80% along with applicable taxes and duties payable within 90 days from the date of the e-auction [or within 180 days provided that the payment made after 90 days will attract interest at the rate of 12% for such extended period i.e. from 31st day to actual date of payment(which shall not be later than 180* day). Default in*

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deposit of amount by the successful bidder would entail forfeiture of the 20% of the sale price, already deposited and property shall be put to re-auction and the defaulting bidder shall have no claim/right in respect of the property/amount.

22. To these terms and conditions, the applicant replied as under:

> 1. *I/We, the bidder/s aforesaid do hereby state that, I/We read the entire terms and conditions of the Tender Document No. RGL/04/2021 ("Tender Document") for sale of the properties specified there under("Properties") and have understood them fully. I / We, hereby unconditionally agree to confirm with and to be bound by the said terms and conditions and agree to take part in the e-auction process.*
>
> 6. *I/We confirm that our participation in the e-auction process, submission of bid or acquisition of the Propert(ies) pursuant to the provisions of the Tender document will not conflict with, or result in a breach of, or constitute a default under(i) our constitutional documents; or (ii) any applicable laws; or (ii) any authorization or approval of any government agency or body; or (iv) any judgement, order, injunction, decree, or ruling, of any court or governmental authority, domestic or foreign binding on me/us: (v) any agreement to which I am/we are a party to by which I am/we are bound.*

It is clear that the e-auction was conducted in an 'as is/where is' basis and the applicant has accepted all the terms and conditions.

23. As per the reply given by the State Tax Officer on 12.07.2018, the charge was created over the properties of the CD and it was also reflected in the revenue records. Thus it was the

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primary duty of the purchaser to verify the records of the property before purchasing or bidding for it, as the charge was created much before the commencement of the CIRP of the CD. Now the applicant is estopped from taking a defence that there was encumbrance upon the property, which he has purchased. The property was clearly sold with the condition that whether the existing or future encumbrances, known or unknown to the seller, the liquidator will not be responsible for it.

24. Apart from this, when the liquidator moved to Hon'ble High Court for lifting of the charge created by the State Tax Department, bearing Civil Application No. 1 of 2023 in SCA 17131/2022. In this application, before the Hon'ble High Court, Ld. Advocate General appearing for the respondent submitted that the charge on the property shall be removed by the State Tax Department within two weeks and the mutation entry reflecting the same shall be endorsed in the revenue record. Considering the affidavit filed by the liquidator and undertaking given by the Ld. Advocate General, the Hon'ble High Court vide order dated 28.04.2025 directed the petitioner i.e the liquidator to deposit the amount of Rs. 15,40,12,000 before the Hon'ble High Court immediately after

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receiving the balance consideration and hand over the assets to the auction purchaser.

25. Immediately on 01.05.2025, the liquidator by issuing email brought these facts to the notice of the applicant and requested them to deposit the balance sale consideration. The applicant has admitted receipt of this letter and instead of making payment he has further issued the letter to the liquidator stating that after the removal of the charge by the State Tax Department, and getting the property free of all encumbrances, they will pay the outstanding amount within 10-15 working days. He has again mentioned that "please note that after removal of the charge we will pay within 10-15 days." When the Ld. Advocate General clearly submitted before the Hon'ble High Court that they are removing the charge within 15 days, it was the duty of the applicant to immediately pay the balance amount to the liquidator as per the directions of the Hon'ble High Court, so that the liquidator should have deposited the same before the Hon'ble High Court. However, instead of making the payment, they have simply sent another letter. This is the second time that the applicant has not fulfilled the requirements of the law. Even if the applicant has disputed the interest, it was their duty at

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least to deposit the amount under protest and show his bonafide and then raise any dispute regarding the interest. When the undertaking was given by the Ld. Advocate General and it was record by the Hon'ble High Court the applicant should not have ignored the same, but to obey it.

26. The applicant has relied upon the following citations:

a) *I.A. No.364 of 2023 in CP(IB) No. 66 of 2017 between Adani Infrastructure and Developer Private Limited Vs. Ramchandra Dallaram Chaudhary, Liquidator of Anil Limited.*

b) *Company Appeal (Insolvency) No. 2316 of 2024 between CA Ramchandra Dallaram Choudhary, Liquidator of Anil Limited Vs. Adani Infrastructure & Developers Pvt. Limited.*

c) *Special Leave Petition No. (Civil) 24811 of 2025 between Viney Kumar Sharma Vs. The Improvement Trust & Anr.*

27. The respondent has relied upon the following citations:

a) *Company Appeal (Insolvency) No. 2316 of 2024 between CA Ramchandra Dallaram Choudhary, Liquidator of Anil Limited Vs. Adani Infrastructure & Developers Pvt. Limited.*

b) *Company Appeal (Insolvency) No. 532 of 2022 between Potens Transmissions & Power Private Limited v, Gian Chand Narag.*

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The facts are different so the rulings are not helpful to the applicant.

28. The liquidator has given opportunity to show cause before forfeiture of the part payment of sale consideration by letter dated 12.06.2025. As per the request of the applicant, time was extended by mail dated 18.06.2025. Thereafter by letter dated 25.06.2025 part payment of sale consideration of Rs. 3,96,00,000/- was forfeited and informed to the applicant. The reason given for forfeiture is failing to deposit the balance consideration with interest and no reply filed even repeated opportunities given. Thus, it shows that even after the passing of the order by the Hon'ble High Court on 28.04.2025 till the forfeiture of the amount on 25.06.2025, the applicant has failed to deposit the balance consideration with the liquidator. Thus the show cause notice as well as the order dated 25.06.2025 for forfeiting the amount is not liable to be set aside. When the amount is already forfeited by the liquidator now the applicant cannot pay the remaining part payment with/without the interest and to issue further sale certificate to him. The objections raised by the applicant regarding the consideration of breach etc and unable to

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establish large scale industry are not relevant at this time when the amount is already forfeited by the liquidator and alternative prayer for amount for refund of said deposit of amount also cannot be granted.

29. Hence we pass the following order :

ORDER

I.A. No. 803 in CP(IB) 206 OF 2018 is rejected and disposed of.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

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