IN THE NATIONAL COMPANY LAW TRIBUNAL

BENCH – VI, NEW DELHI

I.A. NO. 5211 of 2025

in

CP (IB) NO. 2695/ND/2019

IN THE MATTER OF:

Mr. Pradeep Kumar Lakhani

Resolution Professional Dion Global Solutions Limited

...Applicant

Versus

Deputy Commissioner of Income Tax

...Respondent

AND IN THE MATTER OF:

MyKind Vacations Private Limited

..... Operational Creditor

Versus

Dion Global Solutions Limited

..... Corporate Debtor

Order Delivered on: 09.07.2026

CORAM:

JUSTICE JYOTSNA SHARMA, HON'BLE MEMBER (JUDICIAL)

MS. ANU JAGMOHAN SINGH HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the RP : Mr. Pardeep Kumar Lakhani, RP in person,
Adv Kinshull Chatterjee

ORDER

1. Under consideration is an application filed by the Pardeep Kumar Lakhani, Resolution Professional of Corporate Debtor i.e. Dion Global Solutions Limited under Section 60(5) Of the Insolvency and Bankruptcy Code, 2016 with the following prayers:

> *"1. Allow this Application and pass orders declaring the adjustment made by the Respondent of Income Tax refund of INR 29,78,300.00 for the A.Y. 2023-24 against pre-CIRP dues as void ab initio; and*
>
> *2. Direct the Respondent to pay to the account of the Corporate Debtor, the entire Income Tax refund amount of Rs. 29,78,300.00 within one week from the date of this Order; and*
>
> *3. Pass any other/further order(s) which this Hon'ble Tribunal may deem fit proper in the facts and circumstances of the case."*

2. The Relevant facts of the case as averred by the Applicant in its application are as follows:

a. The CIRP of the Corporate Debtor, Dion Global Solutions Limited, commenced pursuant to the order dated 18.08.2020 passed by this Adjudicating Authority, whereby the Applicant was appointed as the Interim Resolution Professional (IRP). Thereafter, a Public Announcement was issued on 27.08.2020 inviting submission of claims on or before 07.09.2020.

b. The Applicant submitted that the Respondent/Income Tax Department neither filed its claim pursuant to the public announcement nor lodged any claim during the CIRP period.

c. That on 08.12.2023, the Corporate Debtor received an intimation under Section 143 of the Income Tax Act, 1961, indicating a refund of ₹29,78,300 for AY 2023–24.

d. That on 25.01.2024, the Corporate Debtor received an intimation under Section 245 of the Income Tax Act, 1961, informing that the refund of ₹29,78,300 had been adjusted against outstanding tax demands. The Applicant submitted that the demands against which the refund was set off pertained to pre-CIRP dues, as detailed below:

Serial No.	A.Y.	Demand Amount adjusted against Refund (in INR)
1.	2016-17	92,106.00
2.	2016-17	13,15,830.00
3.	2016-17	10,000.00
4.	2020-21	15,60,364.00

e. The Applicant, vide communication dated 20.03.2024, informed the Income Tax Department that the Corporate Debtor was undergoing CIRP and was protected by the moratorium under the IBC. The Applicant further stated that the adjustment of the refund against pre-CIRP dues was impermissible in law and requested the Department to file its claim before the RP and release the refund amount to the Corporate Debtor's bank account.

f. The Applicant submitted that on 21.03.2024, a grievance was lodged on the Income Tax Department's grievance portal. However, the refund amount has not been credited to the Corporate Debtor till date, and no satisfactory response has been received to the Applicant's communications. It was further submitted that the grievance was closed on 28.03.2024 without any resolution.

g. The Applicant further submitted that a grievance was lodged on the CPGRAMS portal on 18.08.2025. However, no response or resolution has been received till date, and the grievance continues to remain under process.

h. The Applicant submitted that it had earlier filed IA No. 3878/ND/2024 before a Coordinate Bench of this Adjudicating Authority seeking similar reliefs; however, the same was dismissed for non-prosecution. Thereafter, IA No. 3677/ND/2025 was filed and subsequently withdrawn to enable the Applicant to pursue the matter through the CPGRAMS mechanism. Since no relief was granted by the Respondent pursuant thereto, the present application has been filed seeking the same reliefs.

i. The Applicant/Resolution Professional contends that the Income Tax Department has adjusted the refund amount of ₹29,78,300 against pre-CIRP dues. It is submitted that the Department ought to have filed its claim before the RP and that such set-off, effected during the subsistence of the moratorium, is impermissible in law and void. Accordingly, the Applicant seeks restoration of the refund amount to the Corporate Debtor.

j. The adjustment or set-off by the Income-Tax Department of the IT Refund monies amounts to an appropriation of the Corporate Debtor's asset, which is in violation of the moratorium, and therefore illegal, void and warrants setting aside.

ANALYSIS AND FINDINGS

3. In the present proceeding, notice was issued to the Respondent on 10.11.2025. Despite due service, neither any appearance was entered nor any reply filed on its behalf. Accordingly, vide order dated 26.11.2025, the Respondent/Income Tax Department was proceeded ex-parte. Thereafter, on 24.02.2026, the matter was heard in the absence of the Respondent.

4. That the Corporate Insolvency Resolution Process ("**CIRP**") of the Corporate Debtor commenced on 18.08.2020. Pursuant thereto, the Resolution Professional issued a Public Announcement on 27.08.2020 inviting claims from all creditors, with 07.09.2020 prescribed as the last date for submission of claims. However, despite due publication of the Public Announcement and the opportunity available to participate in the CIRP, the Respondent/Income Tax Department failed to lodge any claim before the Resolution Professional.

5. The Corporate Debtor received an intimation under Section 143 of the Income Tax Act, 1961, whereby a refund of ₹29,78,300/- for Assessment Year 2023–24 was determined to be payable to the Corporate Debtor. Thereafter, vide intimation dated 25.01.2024 issued under Section 245 of the Income Tax Act, 1961, the Respondent informed that the said refund had been adjusted against outstanding tax demands pertaining to

Assessment Years 2016–17 and 2020–21, which constitute pre-CIRP dues of the Corporate Debtor.

6. The issue for consideration is whether the Respondent could appropriate and adjust the income tax refund payable to the Corporate Debtor towards its pre-CIRP tax dues during the currency of the CIRP and the moratorium imposed under Section 14 of the Insolvency and Bankruptcy Code, 2016.

7. Once a refund is determined under Section 143(1) of the Income Tax Act, 1961, it crystallizes into a receivable in favour of the Corporate Debtor, forms part of its assets, and cannot be adjusted towards pre-CIRP dues. Section 14 of the Code, mandates preservation of such assets during the CIRP and prohibits any recovery or enforcement of pre-CIRP dues. The moratorium is binding on all stakeholders, including statutory authorities, and the Income Tax Department cannot take any action that diminishes the assets of the Corporate Debtor or secures recovery outside the insolvency process.

8. Our view is that the only remedy the Respondents had was to file it's claim in time for pre-CIRP dues in accordance with law. What is impermissible directly under the Code cannot be achieved indirectly by invoking the power of set-off under the Income Tax Act.

9. In view of the above observations, this Adjudicating Authority holds that the adjustment of the income tax refund of ₹29,78,300/- against the pre-CIRP tax dues is contrary to law and, accordingly, cannot be sustained. The said adjustment is hereby set aside. Consequently, the Respondent is directed to forthwith release and remit the aforesaid amount to the account of the Corporate Debtor within a period of 30 days from the date of this Order.

10. Accordingly, IA No. 5211 of 2025 in CP-IB/2695/ND/2019 **stands disposed of**.

Sd/-	**Sd/-**
(ANU JAGMOHAN SINGH)	**(JYOTSNA SHARMA)**
MEMBER (T)	**MEMBER (J)**