IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

I.A. No. 1034 of 2026
in
C.P. (IB) No. 103/BB/2018
(Application under Section 60 (5) IBC, 2016 r/w Rule 11 of the NCLT Rules, 2016)

IN THE MATTER OF:

M/s BP Metal Packs Private Limited
Regd. Office: #36, Kunigal Industrial Area,
Kunigal, Tumkur 572 130,
operations at: No. 39/4, 12th K.M.,
Kanakapura Road, Doddakallasandra,
Bengaluru 560 062 … Applicant

VERSUS

Smt. Ramanathan Bhuvaneshwari, Liquidator
Liquidator Of M/s Metal Closures Private Limited
C-006 Pioneer Paradise, 24th Main Road,
7th Phase, JP Nagar, Bangalore 560 078 … Respondent No.1

M/s Metal Closures Private Limited (In Liquidation**)**
No.39/4B,12th K.M., Kanakapura Road,
Doddakallasandra Village,
Bengaluru South Taluk 560 062 … Respondent No.2

IN THE MAIN MATTER OF
State Bank of India …. Financial Creditor

VERSUS

M/s Metal Closures Private Limited …Corporate Debtor

Order delivered on: 06.10.2026

Coram: Shri Sunil Kumar Aggarwal, Hon'ble Member (Judicial)
Shri Radhakrishna Sreepada, Hon'ble Member (Technical)

Parties/Counsels Present:

For the Applicant	:	Mr Pramod Nair, Sr. Adv with briefing Counsel
For the Respondent	:	Mr. Dhananjay Joshi, Sr. Adv. With briefing Counsel

O R D E R

1. The present Application has been filed by **M/s B.P. Metal Packs Private Limited** under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("Code") read with Rule 11 of the National Company Law Tribunal Rules, 2016, against **Smt. Ramanathan Bhuvaneshwari, Liquidator** of M/s Metal Closures Private Limited (in Liquidation) and **M/s Metal Closures Private Limited (in Liquidation)** seeking the following reliefs: -

   A. *Direct Respondent No. 1 to appoint an independent registered valuer, chartered engineer or technical auditor possessing the requisite qualifications, to inspect and audit the plant and machinery lying at the Bengaluru factory premises of the Corporate Debtor and to submit a report classifying and demarcating the assets belonging to the Corporate Debtor and the components, upgrades, spares, dies, toolings and accessories belonging to the Applicant;*
   B. *Direct Respondent No. l, on the basis of such report, to amend the Asset Memorandum or to issue a fresh Asset Memorandum under Regulation 34 Of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, so as to confine the liquidation estate to the assets of the Corporate Debtor;*
   C. *Direct Respondent No. 1 to refrain from conducting the e-auction of the plant and machinery until the inspection, audit and classification aforesaid is completed and placed before this Hon'ble Tribunal;*
   D. *Direct Respondent No.1 to refrain from floating or issuing any further or fresh e-auction sale notice in respect of the plant and machinery of the Corpo Debtor till the adjudication of the instant application;*
   E. *Set aside the E-Auction Sale Notice dated 08.09.2026 in so far as it relates to the plant and machinery, and direct Respondent No. I to issue a fresh notice confined to the assets of the Corporate Debtor; and*
   F. *Pass such Other and further order or orders as this Hon'b in the facts and circumstances Of the case, in the interest of justice.*

   INTERIM RELIEF

   Pending consideration of the present Application, it is most hum be pleased to:

A. Stay the operation and implementation of the E-Auction sale Notice dated 08.09.2026, and consequentially stay the e-auction scheduled for 08.10.2026, insofar as it relates to the plant and machinery of the Corporate Debtor;
B. Pass such other interim order or orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

2. Brief relevant facts of the Application are as follows: -

i. The Applicant is aggrieved by the proposed sale of the plant and machinery of the Corporate Debtor pursuant to the E-Auction Sale Notice dated 08.09.2026, particularly on the ground that machinery, components, upgrades, control panels, drive systems, dies, tooling, spares and other equipment claimed by the Applicant to be its own have not been identified or excluded from the assets proposed to be auctioned.

ii. The Applicant was incorporated on 27.12.1993 and is engaged in the business of manufacture, trading and supply of metal products, including metal closures, packaging products and allied industrial products. The Corporate Debtor, M/s Metal Closures Private Limited, was incorporated on 07.12.1977 and was engaged in the manufacture of pilfer-proof caps, screw caps, crown corks, closures and allied products.

iii. It is stated that the Corporate Debtor was admitted into Corporate Insolvency Resolution Process pursuant to the order dated 14.12.2018 passed by this Tribunal in CP (IB) No. 103/BB/2018, filed by State Bank of India under Section 7 of the Code. Subsequently, by order dated 26.09.2019, the Corporate Debtor was ordered to be liquidated. The liquidation proceedings thereafter remained subject to proceedings before the higher Courts, and the present Liquidator was appointed by this Tribunal on 01.06.2026.

iv. According to the Applicant, since about 2017, it had been carrying on its operations from the premises where the Corporate Debtor's factory is situated and had, over the years, installed and maintained its own machinery, equipment, components, control panels, drive systems, gearboxes, motors, moulds, dies, tooling, spares and other items. The Applicant asserts that several such items

were purchased by it from third-party vendors at its own cost and that the corresponding invoices and other supporting documents stand in its name.

v. The Applicant further states that some of its machinery components and upgrades were subsequently embedded in or attached to machinery belonging to the Corporate Debtor. According to the Applicant, such physical attachment did not transfer ownership of those components, upgrades or equipment to the Corporate Debtor, and the same continued to remain the exclusive property of the Applicant.

vi. The Applicant refers to the registered Lease Agreement dated 15.03.2023 executed between the Applicant and the Corporate Debtor in respect of the land, plant and machinery situated at the premises. The Applicant contends that it had been operating its manufacturing activities from the said premises for several years and that its own assets have remained within the premises along with the assets of the Corporate Debtor.

vii. After the appointment of the present Liquidator, the Applicant had furnished a list of its own fixed assets and third-party assets lying within the premises to the Liquidator by email dated 19.06.2026. By communication dated 29.06.2026, the Applicant had again requested that its machinery, components and accessories be identified and segregated from the assets of the Corporate Debtor before undertaking valuation or sale of the assets.

viii. The Applicant states that despite furnishing the details and repeatedly requesting physical identification and segregation of its assets, the same were not separately identified by the Liquidator. According to the Applicant, the issue regarding third-party assets was also raised before the Consultation Committee, but the Applicant's request for proper identification and classification of its assets was not resolved.

ix. The Applicant further states that the Liquidator subsequently issued the E-Auction Sale Notice dated 08.09.2026, proposing the sale of the assets of the Corporate Debtor through e-auction, with the auction scheduled for 08.10.2026.

The Applicant contends that the description of the assets proposed to be sold includes the plant and machinery of the Corporate Debtor without separately identifying or excluding machinery, components, upgrades, dies, tooling and other items claimed by the Applicant.

x. The Applicant refers to the options provided in the e-auction process, including the proposal for sale of the factory and machinery as a composite lot as well as sale of machinery under different categories. According to the Applicant, unless the ownership of the respective machinery and components is first identified, the proposed auction would result in the Applicant's assets being included in the liquidation sale.

xi. The Applicant had earlier approached this Tribunal by filing I.A. No. 870 of 2026, seeking relief against the earlier auction process. The said Application came to be disposed of by order dated 09.09.2026 as having become infructuous. The Applicant states that the said order did not adjudicate upon the ownership, identification, classification or exclusion of the Applicant's machinery and components on merits. The present Application has therefore been filed in the context of the fresh e-auction process arising from the Sale Notice dated 08.09.2026.

xii. The Applicant states that the e-auction process document contains a description of the assets proposed for sale, including the land, building, plant and machinery of the Corporate Debtor, but does not, according to the Applicant, separately identify the components and machinery claimed by it. The Applicant has therefore placed before the Tribunal a comparative statement correlating the machinery appearing in the Corporate Debtor's asset list with the components, upgrades and additions stated to have been purchased or installed by the Applicant.

xiii. The Applicant asserts that unless a physical inspection, technical audit and independent verification of the machinery is undertaken, it would not be possible to accurately determine which assets belong to the Corporate Debtor and which

assets belong to the Applicant. The Applicant therefore seeks identification and segregation of the alleged third-party assets before any sale of the plant and machinery is proceeded with.

3. The Applicant has made following submissions:
   a) Ld. Counsel for the Applicant submits that the liquidation estate can comprise only the assets belonging to the Corporate Debtor and that property belonging to a third party cannot lawfully be treated as part of the liquidation estate merely because such property is physically situated within the premises of the Corporate Debtor.
   b) It is submitted that the Applicant has independently purchased and installed several items of machinery, components, control panels, drive systems, gearboxes, motors, dies, moulds, tooling, spares and other equipment from its own funds and that the Applicant possesses invoices and other documentary material evidencing such purchases. The Applicant contends that the ownership of these assets therefore vests in the Applicant and not in the Corporate Debtor.
   c) The Applicant further submits that several components purchased by it have subsequently been fitted into or embedded in machinery of the Corporate Debtor. It is argued that mere physical attachment or embedding of a component in another machine does not, by itself, transfer ownership of the component to the Corporate Debtor. According to the Applicant, the proprietary rights of the Applicant continue notwithstanding the physical location or attachment of such components.
   d) Ld. Counsel submits that Section 36 of the Code confines the liquidation estate to the assets of the Corporate Debtor and excludes assets belonging to third parties. It is therefore contended that the Liquidator's powers of custody, control, valuation and sale extend only to the property forming part of the liquidation estate and cannot extend to assets independently owned by the Applicant.
   e) The Liquidator has proceeded with valuation and the proposed e-auction without first undertaking a proper physical inspection and technical identification of the machinery and components claimed by the Applicant. The Applicant contends that

the present description of the machinery in the auction notice is composite and undifferentiated and therefore creates a serious possibility of the Applicant's assets being sold along with the assets of the Corporate Debtor.

f) The Applicant submits that the proposed auction on an "as is where is", "as is what is", "whatever there is" and "no recourse" basis makes prior identification of ownership even more necessary, as once the machinery is sold, the Applicant may be seriously prejudiced in asserting its proprietary rights over the components and equipment allegedly belonging to it.

g) The Applicant therefore seeks appointment of an independent registered Valuer/technical expert/engineer for physical inspection of the plant and machinery and for identification, classification and segregation of the assets belonging to the Applicant from those forming part of the liquidation estate of the Corporate Debtor.

h) The Applicant further submits that the Asset Memorandum and valuation exercise ought to reflect only the assets actually belonging to the Corporate Debtor and that the Applicant's assets should be expressly excluded from the liquidation estate and from the proposed auction.

i) It is stated that the Applicant is not seeking to obstruct or delay the liquidation proceedings and is willing to cooperate with the Liquidator, valuers and other professionals by producing invoices, purchase documents and other material and by facilitating physical inspection and verification of the machinery.

j) In the circumstances, the Applicant submits that the e-auction process, insofar as it concerns the plant and machinery which allegedly includes the Applicant's assets, ought not to be proceeded with until the ownership of the disputed machinery and components is independently verified, identified and segregated. The Applicant accordingly seeks appropriate directions against the Liquidator and consequential protection of its alleged assets pending such exercise.

4. We have heard Ld. Senior Counsels for the parties and perused the material placed on record. The respondent has objected to the application contending that approaching the Authority at eleventh hour in itself indicates the hollowness of case. He also objected to the applicant deploying something on the CD machineries when liquidation was going on. A doubt about the tools and aids having actually been attached to or embedded in CD machines has also been raised.
5. The present Application has been filed under Section 60(5) of the Code, 2016, principally seeking a direction to the Liquidator to appoint an independent registered valuer/chartered engineer/technical auditor for identification and segregation of certain machinery, components, upgrades, spares, dies, toolings and accessories which, according to the Applicant, belong to it and have allegedly been included in the assets of the Corporate Debtor proposed to be sold in the e-auction scheduled on 08.10.2026. The Applicant has also sought stay of the e-auction insofar as it relates to the plant and machinery and setting aside of the E-Auction Sale Notice dated 08.09.2026 in that regard.
6. At the outset, it is necessary to notice that the foundation of the Applicant's claim is that certain machinery, components and accessories were purchased by it and subsequently installed in or attached to the machinery of the Corporate Debtor. The Applicant has relied upon invoices and a comparative statement prepared by it to contend that certain parts, upgrades and components were funded and installed by it. However, the onus of establishing a specific third-party proprietary interest in assets which are in the custody of the Liquidator cannot be shifted merely by making such assertion. The statutory exclusion under Section 36(4)(a) of the Code operates in respect of assets owned by a third party which are in the possession of the Corporate Debtor. Thus, the precondition for exclusion is establishment of third-party ownership; a mere assertion of ownership does not, by itself, take an asset outside the liquidation estate. Section 36(3) correspondingly contemplates the inclusion of assets over which the Corporate Debtor has ownership rights and also assets whose ownership is yet to be determined.

7. In the present case, the conduct of the Applicant assumes considerable significance. Admittedly, the Applicant has been operating from the premises of the Corporate Debtor and claims to have known, for a considerable period, the nature and extent of the machinery allegedly belonging to it. The Applicant itself states that it had been installing machinery, components, upgrades, spares and other equipment in the premises over the years. Therefore, if the Applicant was conscious that its alleged assets were lying in the same premises as, and in some cases had become integrated with or embedded in, the machinery of the Corporate Debtor, it ought to have maintained and produced a clear, contemporaneous and item-wise record establishing the identity, ownership and status of each such alleged asset.

8. The Applicant relies upon the registered Lease Agreement dated 15.03.2023. However, from the material placed before us, there is no specific schedule to the said Lease Agreement identifying the particular machinery, components, upgrades, dies, toolings, spares or accessories allegedly owned by the Applicant and distinguishing the same from the plant and machinery of the Corporate Debtor. The mere existence of a lease arrangement between the parties does not, by itself, establish title in favour of the Applicant over every item which the Applicant now claims to have installed or improved. The absence of an item-wise schedule or contemporaneous contractual demarcation assumes importance particularly when the claim is not in respect of readily identifiable independent machines alone but also concerns components, upgrades and additions allegedly embedded in the machinery of the Corporate Debtor.

9. In the present case, however, the Applicant has not placed before this Tribunal any independent technical report or contemporaneous expert assessment establishing that the alleged embedded components continue to constitute separately identifiable and independently severable property of the Applicant. Instead, the Applicant seeks a direction to the Liquidator, at this belated stage, to appoint a technical professional so as to undertake the very exercise which is necessary to establish the Applicant's claim. The burden cannot be reversed in this manner. The party asserting ownership must first place

sufficient material before the Tribunal to establish a prima facie proprietary claim; it cannot demand that the Liquidator undertake an open ended investigation merely because the Applicant has asserted that certain components were purchased by it. Had that been the case, instead of trying to ride on the shoulders of Liquidator, the Applicant would have taken initiative to take Experts service for separating the parts.

10. This principle assumes greater significance in the facts of the present case since the Applicant itself states that it had furnished a list of its alleged assets to the Liquidator on 19.06.2026 and again requested identification and segregation on 29.06.2026. Thus, the Applicant was fully aware, several months before filing the present Application, that the Liquidator was in the process of taking control of the assets and proceeding towards valuation and sale. The Applicant was therefore not unaware of the impending liquidation sale or of the alleged problem concerning its machinery. Having knowledge of the issue at that stage, the Applicant could have, at its own instance, obtained a detailed independent technical inventory and report correlating each disputed component with its corresponding invoice, purchase record, asset register and physical location. No such independent technical determination appears to have been placed on record before the Tribunal.

11. The fact that the Applicant addressed communications to the Liquidator requesting that a technical professional be appointed does not discharge the Applicant's own burden of establishing its proprietary claim. The Liquidator is required to administer and realise the assets forming part of the liquidation estate and cannot be expected to undertake an indefinite determination of title at the instance of every person who raises a belated claim over assets forming part of the Corporate Debtor's plant and machinery. The Hon'ble NCLAT in ***Reliance Realty Limited v. Anup Kumar & Anr.,*** **Company Appeal (AT) (Ins.) No. 900 of 2025, decided on 29.10.2025**, has held that where a dispute over ownership of movable assets in the custody of the Liquidator is raised, the burden of proving ownership rests upon the person asserting such ownership, and that the Liquidator cannot be required to establish title to assets merely because a third party subsequently asserts a proprietary claim.

12. The said decision is also relevant on the aspect of belated intervention in an ongoing liquidation process. The NCLAT noticed that where the claimant had knowledge of the liquidation process and the auction process but failed to raise a timely and substantiated ownership claim, the Adjudicating Authority was justified in putting the burden on the claimant. The NCLAT further emphasized that the liquidation process ought not to be unnecessarily disrupted by belated and unsupported claims.

13. In the present case, the Applicant's conduct is not on the same footing as a party which had no notice whatsoever of the liquidation or the proposed sale. On the Applicant's own showing, it knew of the liquidation proceedings, knew that the Liquidator had assumed control of the premises and assets, specifically communicated with the Liquidator regarding the alleged third-party assets in June 2026, and was therefore conscious of the necessity of identifying and segregating the alleged assets. Nevertheless, the present Application has been filed only immediately preceding the scheduled e-auction. The present Application is dated 01.10.2026, whereas the e-auction is scheduled for 08.10.2026.

14. The plea that the Liquidator ought now to appoint a technical professional cannot, therefore, be accepted as a ground to stall the liquidation process. The Applicant was itself the party asserting ownership and was in possession and control of its alleged machinery and records for years. The responsibility of maintaining an identifiable record of its own assets cannot be transferred to the liquidation estate at the eleventh hour. Particularly in the absence of an item-wise contractual schedule and in view of the Applicant's own case that several components have been incorporated into the machinery of the Corporate Debtor, the Tribunal cannot presume that such components continued to possess a distinct proprietary identity merely because the Applicant purchased the original components.

15. We are, therefore, of the considered view that the Applicant has failed to establish, at this stage, any legally enforceable and sufficiently demonstrated proprietary right in respect of the particular components, upgrades, spares, dies, toolings and accessories which it seeks

to have excluded from the liquidation estate. The documents relied upon by the Applicant may establish that it purchased certain materials at different points of time, but they do not, in the absence of an item-wise contractual schedule and independent technical evidence establishing the continued separate identity and ownership of the alleged embedded components, conclusively establish that the very items presently forming part of the Corporate Debtor's machinery are outside the liquidation estate.

16. Section 36(4)(a) of the Code cannot be invoked on the basis of a mere possibility or unilateral assertion. It is attracted where the asset is owned by a third party. On the material before us, that essential factual foundation has not been established by the Applicant. Rather, the assets are presently in the custody of the Liquidator as part of the Corporate Debtor's plant and machinery, and the Applicant seeks a further technical exercise to determine what, if anything, can be separated and treated as its property. In such circumstances, the Applicant cannot obtain an order bringing the entire auction process to a halt merely by raising a disputed claim immediately before the sale.

17. We are also of the view that directing the Liquidator at this stage to undertake a fresh technical exercise, appoint experts and defer the auction would have the effect of transferring to the liquidation estate the burden of resolving a proprietary claim which the Applicant, despite having knowledge of the issue for several months, has itself failed to establish by independent evidence. Such an approach would unnecessarily impede the statutory liquidation process and would be contrary to the object of timely realization and value maximization.

18. In view of the foregoing discussion, this Tribunal finds no sufficient ground to interfere with the E-Auction Sale Notice dated 08.09.2026 or to restrain the e-auction scheduled for 08.10.2026. The Applicant has failed to make out a case for the appointment of an independent technical professional at this belated stage or for exclusion of the alleged components and machinery from the liquidation estate.

19. Accordingly, **I.A. No. 1034 of 2026 is hereby dismissed**. Consequently, the prayer seeking stay of the E-Auction Sale Notice dated 08.09.2026 and the e-auction scheduled for 08.10.2026 is rejected.

20. It is, however, clarified that the dismissal of the present Application shall not be construed as a declaration of title in favour of the Corporate Debtor in respect of any specific asset as against any third-party claim which may independently be established in accordance with law. The Applicant shall be at liberty to avail such other remedy as may be available to it in law in respect of any independently established proprietary right, subject to the provisions of the Code and the rights of any third party that may accrue pursuant to the lawful liquidation process.

-Sd-
RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-
SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)