IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.301

IA/285(AHM)2021 in CP(IB) 305 of 2018

Under Section 60(5) r.w 53 & 36(3)(b) of IB Code, 2016

IN THE MATTER OF:

Pradeep Kumar Kabra Liquidator of Pacific Pipe System Pvt Ltd. **.....Applicant**

V/s

Assistant Commissioner of Sales Tax & Anr **.....Respondent**

Order delivered on: 26/10/2026

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

O R D E R
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

-SD-
SANJEEV SHARMA
MEMBER (TECHNICAL)

-SD-
SHAMMI KHAN
MEMBER (JUDICIAL)

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-I, AHMEDABAD

I.A. No.285(AHM)2021
in
C.P (I.B.) No.305/7/NCLT/AHM/2018

(An application under Section 60(5) read with Section 53 and Section 36(3)(b) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016)

In the original matter of:

M/s. Bank of India

……. Applicant

VERSUS

Pacific Pipe Systems Private Limited

……. Corporate Debtor

MEMO OF PARTIES

Mr. Pradeep Kumar Kabra
Liquidator of Pacific Pipe Systems Private Ltd.
Having address at: M-19-20-21,
Metro Tower, Ring Road, Surat – 395002.

……. Applicant/Liquidator

VERSUS

1. **Assistant Commissioner of Sales Tax**
   Office of the Assistant Commissioner of Sales Tax,
   Having address at: Unit-6, D/4,
   Multi Storeyed Building, Apna Bazar,
   Lal Darwaja, Ahmedabad – 380001.

2. **Employees Provident Fund Organisation**
   Having address at: EPF Regional Office,
   Near Income Tax Circle,
   Ashram Road, Ahmedabad – 380014.

……. Respondents

Order Pronounced On: 26.10.2026

C O R A M:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

A P P E A R A N C E S:

For the Applicant : Mr. Ravi Pahwa, Advocate a. w.
Ms. Gunjan Aggarwal, Adv. for
The Liquidator.

For the Respondents : Mr. Hitesh P. Vachhani, Advocate for
State Tax Department
: Mr. A. V. Nair, Advocate for EPFO

O R D E R
(Per Bench)

1. This Interlocutory Application was filed on 15.03.2021 by Mr. Pradeep Kumar Kabra, Liquidator of Pacific Pipe Systems Private Limited, under Section 60(5) read with Sections 36(3)(b) and 53 of the Insolvency and Bankruptcy Code, 2016 ("IBC"), and Rule 11 of the National Company Law Tribunal Rules, 2016 for the following reliefs: -

A. *That this Hon'ble Tribunal pass an order directing Respondent no.1 to lift/release the attachment/ Charges created on the assets/properties of the Corporate Debtor (attached by Respondent no.1) vide mutation entry no. 1027, 1039, 1148 be hereby lifted/released from the revenue records so as to put the property for sale/auction.*

B. *That this Hon'ble Tribunal pass an order directing Respondent no.2 to lift/release the attachment/Charges created on the assets/properties of the Corporate Debtor, attached by Respondent no.2 vide mutation entry no. 1073,*

3289 be hereby lifted/released from the revenue records so as to put the property for sale/auction.

C. *To pass any other as may be deem fit by the adjudicating authority.*

2. By order dated 18.12.2019, this Tribunal admitted the application filed by Bank of India under Section 7 of the IBC and initiated the Corporate Insolvency Resolution Process ("CIRP"). Mr. C. P. Jain was appointed Interim Resolution Professional. The order is annexed as Exhibit-A to the Application.

3. By order dated 02.03.2020 in I.A. No. 175 of 2020, the Applicant was appointed Resolution Professional. Thereafter, by order dated 04.11.2020 in I.A. No. 638 of 2020, this Tribunal ordered liquidation of the Corporate Debtor and appointed the Applicant as Liquidator. These orders are annexed as Exhibit-B and Exhibit-C, respectively to the Application.

4. The first property is non-agricultural land bearing Revenue Survey/Block No. 207, Account No. 239, admeasuring 67,979 square metres, situated at Village Naranpura, Taluka Sanand, District Ahmedabad. Mutation Entry Nos. 1027, 1039 and 1148 relate to Respondent No. 1, and Mutation Entry No. 1073 relates to Respondent No. 2.

5. The second property is non-agricultural land bearing Revenue Survey/Block No. 101 Paiki, Account No. 366, admeasuring 14,766 square metres, situated at Village Khoda, Taluka Sanand, District Ahmedabad. Mutation

Entry No. 3289 relates to Respondent No. 2. The land records are annexed as Exhibit-D.

6. The Respondent No. 1 relies upon assessment orders dated 25.02.2015, 04.08.2015, 28.09.2015, 31.03.2018 and 30.03.2019. The assessment orders and mutation entries are annexed as Exhibit-E (Colly.) and Exhibit-F, respectively. Respondent No. 2 relies upon its attachment communication dated 26.09.2017 and related documents annexed as Exhibit-G.

7. The Applicant states that Respondent No. 2 submitted a claim of Rs. 5,19,411/- during CIRP on 12.02.2020 and again during liquidation on 25.01.2021. The Applicant requested submission in the prescribed form by communication dated 12.02.2021. The relevant claim and correspondence are annexed as Exhibit-H and Exhibit-I (Colly.).

8. The Applicant states that Respondent No. 1 submitted a claim of Rs. 72,83,78,597/- on 01.03.2021, which was rejected by email dated 10.03.2021 as time-barred. Respondent No. 1 contends that it had earlier submitted its claim to the Resolution Professional on 20.06.2020. The claim and related correspondence are annexed as Exhibit-K (Colly.), subject to verification against the index and original record.

9. The Applicant placed on record the minutes of the Stakeholders' Consultation Committee meetings held on

21.01.2021, 09.03.2021 and 02.06.2021 as Exhibit-L (Colly.), and the e-auction notices dated 01.02.2021 and 19.02.2021 as Exhibit-M (Colly.).

10. M/s. Profitplus Infra Private Limited deposited earnest money of Rs. 2,65,50,000/- on 05.03.2021. The e-auction was completed on 08.03.2021, and a Letter of Intent was issued on 09.03.2021. The deposit receipt and Letter of Intent are annexed as Exhibit-N and Exhibit-O.

11. The Applicant states that the purchaser paid the balance consideration of Rs. 23,89,50,000/- on 04.06.2021, making the total sale consideration Rs. 26,55,00,000/-. The payment statement is annexed as Exhibit-P. The Certificate of Sale dated 15.06.2021 and addendum dated 29.06.2021 are annexed as Exhibit-Q.

12. The Respondent No. 2 filed its reply on 21.06.2021 and submitted that the attachments secure provident fund dues for the periods 09/2008 to 02/2014 and 03/2014 to 01/2017. It relies upon Sections 36(4)(a)(iii) and 53 of the IBC read with Sections 7A, 7Q, 8B to 8G and 11 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("EPF Act").

13. The Respondent No. 2 states that, apart from Rs. 5,19,411/-, an amount of Rs. 92,94,943/- was determined under Section 7A of the EPF Act by order dated 05.02.2021. Its revised claim also includes Rs. 92,88,940/- towards tentative damages under Section 14B and Rs.

98,72,076/- towards tentative interest under Section 7Q. The reply records the total claim as Rs. 2,89,79,370/-, whereas the Applicant refers to Rs. 2,89,75,370/-.

14. The Respondent No. 1 filed its reply on 03.06.2024 and asserted that Section 48 of the Gujarat Value Added Tax Act, 2003 ("GVAT Act") creates a statutory first charge over the property. It further contended that its earlier claim dated 20.06.2020 was submitted during CIRP and must be considered under Regulation 12(2)(c) of the IBBI (Liquidation Process) Regulations, 2016.

15. The Respondent No. 1 relied upon assessment and appellate orders, the earlier communication to the revenue authorities and the claim records. It contended that its statutory charge is a security interest under Section 3(31) of the IBC and that this Tribunal cannot exercise jurisdiction to set aside assessment orders or extinguish its statutory rights.

16. The Applicant filed additional affidavits and a rejoinder on 05.07.2024. It stated that the Corporate Debtor had been sold as a going concern for Rs. 26,55,00,000/- and that the sale proceeds had been distributed in June 2021 under Section 53 of the IBC, after retaining Rs. 3,49,75,370/- towards claims, liquidation expenses and contingencies, together with Rs. 15,00,000/- towards litigation and unpaid committed costs.

17. The Applicant contends that Respondent No. 1 did not exercise option under Section 52 of the IBC within the period contemplated by Regulation 21A of the IBBI (Liquidation Process) Regulations, 2016. It submits that the properties form part of the liquidation estate and that the continued attachments obstruct implementation of the completed sale. These contentions require consideration with reference to the relevant records and statutory provisions.

18. In relation to Respondent No. 2, the Applicant relies upon the order in I.A. No. 302 of 2024 and the judgment dated 28.07.2025 in *Employees Provident Fund Organisation v. Pradeep Kumar Kabra, Liquidator of Pacific Pipe Systems Private Limited*, Company Appeal (AT) (Ins.) No. 1459 of 2024. The precise date and operative directions of the order in I.A. No. 302 of 2024, and the amount covered by the adjudication, shall be stated in accordance with the certified order.

19. The Applicant states that Respondent No. 2 has challenged the NCLAT judgment dated 28.07.2025 before the Hon'ble Supreme Court in Civil Appeal No. 12926 of 2025. The current status of the appeal and any interim order shall be verified from the Supreme Court record. The effect of the subsisting orders shall be considered subject to any subsequent direction of the Hon'ble Supreme Court.

20. In ***Leo Edibles & Fats Ltd. v. Tax Recovery Officer (Central), Income Tax Department, Hyderabad & Ors.,***

W.P. No. 8560 of 2018, decided on 26.07.2018, the High Court held that an attachment does not, by itself, exclude an asset from the liquidation estate under Section 36(3)(b) of the IBC or prevent its sale under the liquidation process.

21. In ***State Tax Officer v. Rainbow Papers Ltd.,*** Civil Appeal No. 1661 of 2020, decided on 06.09.2022, reported in (2022) 9 SCC 330, the Hon'ble Supreme Court considered Section 48 of the Gujarat Value Added Tax Act, 2003 and the State's claim to secured-creditor status. The decision must be considered with the subsequent judgment in ***Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Private Limited*** in determining the treatment of statutory charges during liquidation.

22. In ***Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Private Limited,*** Civil Appeal No. 7976 of 2019, decided on 17.07.2023, reported as 2023 INSC 625, the Hon'ble Supreme Court considered the liquidation framework, attachment of property and distribution under Section 53 of the IBC. The asserted statutory charge, the procedure under Section 52 and the effect of the liquidation sale must be examined in accordance with that judgment and the applicable provisions of the Code.

23. In ***Swiss Ribbons Pvt. Ltd. v. Union of India,*** (2019) 4 SCC 17, the Hon'ble Supreme Court explained the role of the Resolution Professional in receiving, verifying and collating claims. In ***Embassy Property Developments Pvt. Ltd. v. State of Karnataka,*** (2020) 13 SCC 308, the Court

considered the limits of the Adjudicating Authority's jurisdiction over public-law decisions. The present application concerns the effect of attachments on assets dealt with in liquidation and does not seek appellate review of the underlying tax assessments.

24. The Respondent No. 1 also relies upon ***Vishal Saxena & Anr. v. Swami Deen Gupta, Resolution Professional***, 2020 SCC OnLine NCLT 2734; ***Bijoy Prabhakaran Pulipra v. State Tax Officer, SCSG Department, Kerala***, Company Appeal (AT) (CH) (Ins.) No. 42 of 2021; and ***State Bank of India v. ARGL Ltd.,*** I.B.-531(PB)/2019. These authorities are relied upon concerning claim-submission timelines, tax assessments and government dues reflected in company records. Their applicability shall be assessed in the context of the facts and the binding law governing liquidation.

25. The Respondent No. 2 relies upon *V-**Con Integrated Solutions Pvt. Ltd. v. Acharya Techno Solutions (India) Pvt. Ltd. & Ors***., I.A. No. 176/KOB/2020, decided on 18.02.2021; ***Precision Fasteners Ltd. through Liquidator v. Employees Provident Fund Organisation***, M.A. No. 576 of 2018 in C.P. (IB) No. 1339(MB)/2017, decided on 07.09.2018; and ***Regional Provident Fund Commissioner v. Ramchandra D. Chaudhary***, Company Appeal (AT) (Ins.) No. 1001 of 2019. These decisions are cited concerning the treatment and priority of provident fund dues under the IBC and the EPF Act.

26. The Applicant relies upon *Regional Provident Fund Commissioner v. Excel Glass Limited*, I.A. No. 127 of 2023 in IBA/258/CB/2019, decided on 02.08.2023, concerning damages and interest under Sections 14B and 7Q of the EPF Act. The treatment of each component of Respondent No. 2's claim shall be determined separately, having regard to Section 36(4)(a)(iii) of the IBC, the EPF Act and the subsisting judicial orders.

27. Section 36(3)(b) of the IBC includes encumbered assets within the liquidation estate, subject to the exclusions under Section 36(4). Sections 52 and 53 govern the realisation of security interests and distribution of liquidation proceeds. The existence of a mutation entry does not, by itself, determine the admissibility, quantum or priority of a claim or establish compliance with the procedure for enforcement of security during liquidation.

28. Issues of admissibility of claims of state tax department and Employee Provident Fund Organisation and priority of distribution to both under section 53 of the Code are different from the matters of relinquishment of security interest under section 52 of the Code read with Regulation 21A of the IBBI (Liquidation Process) Regulations, 2016. In case, the secured creditor does not intimate its decision of relinquishment of security interest or realise its security interest within thirty days from the liquidation commencement date, the assets covered under the security interest are presumed to be part of the liquidation estate.

29. As far as the status of claims of the State Tax Department under GVAT, whether to be treated as secured or not, the issue is already settled by insertion of explanation to section 3(31) of the IBC, 2016 w.e.f. 26.05.2026 which exclude security interest created merely by operation of law an which is applicable from retrospective effect as held and affirmed by Hon'ble NCLAT in ***State Tax Officer v. CA Vinod T. Agrawal (RP) and Ors.,*** (2026) ibclaw.in 1116 NCLAT decided on 25.09.2026 and in ***Greater Noida Industrial Development Authority v. Anand Sonbhadra (RP) and Ors***., (2026) ibclaw.in 1060 NCLAT decided on 16.09.2026, held that Section 3 (31) of the code as stand modified in April 2026, shall have retrospective effect.

30. Moreover, in ***Avenue Realty v. Assistant Commissioner Srirangam (GST Circle) and Ors.,*** (2026) ibclaw.in 2350 HC Madars High Court also held that "Rainbow Papers arose in CIRP under unamended Regulation 12 and was confined to its facts; post-amendment Regulation 12 required creditor to submit claim with proof within time and belated claims could not be entertained; liquidation is governed by Section 53 waterfall read with overriding Section 238; charge by operation of law did not constitute security interest under Section 3(31), as clarified by the 2026 amendment, held clarificatory and retrospective; attachment could not be automatically revived merely because reflected in encumbrance certificate – impugned order **set aside**, writ appeal **allowed**, registering authority directed to make contra entry enabling property to be dealt

with free from encumbrance, subject to outcome of pending appellate proceedings."

31. In view of the above, the record shall be examined for any intimation by Respondent No. 1 under Section 52 of the IBC and compliance with Regulation 21A of the Liquidation Process Regulations. The legal consequence shall follow from the material on record and the applicable provisions. The existence of a mutation entry alone shall not be treated as proof that the statutory procedure for enforcement of security during liquidation has been followed.

32. The Applicant states that the Corporate Debtor was sold as a going concern to M/s. Profitplus Infra Private Limited for Rs. 26,55,00,000/- and that a Certificate of Sale dated 15.06.2021 was issued, followed by an addendum dated 29.06.2021. The certificate and addendum shall be examined to confirm that both properties and the entries sought to be released are covered by the sale.

33. The Respondent No. 1 asserts that its claim dated 20.06.2020 was submitted during CIRP. The Liquidator shall verify the CIRP records and consider Regulation 12(2)(c) of the Liquidation Process Regulations and the applicable provisions governing claims. This direction does not determine the admissibility, quantum or priority of the claim and does not set aside the rejection communicated on 10.03.2021.

34. The effect of the order in I.A. No. 302 of 2024 and the NCLAT judgment dated 28.07.2025 shall be determined from their operative portions, subject to any subsequent order of the Hon'ble Supreme Court. The Liquidator shall distinguish amounts claimed as provident fund, pension fund or gratuity fund under Section 36(4)(a)(iii) of the IBC from damages and interest under Sections 14B and 7Q of the EPF Act, and deal with each component in accordance with the applicable law and subsisting orders.

35. Subject to the findings recorded above, Respondent No. 1, the Assistant Commissioner of Sales Tax, shall issue a release communication in respect of Mutation Entry Nos. 1027, 1039 and 1148 over Revenue Survey/Block No. 207, Account No. 239, Village Naranpura, Taluka Sanand, District Ahmedabad, insofar as the entries relate to the property covered by the Certificate of Sale dated 15.06.2021

36. Subject to the findings recorded above, Respondent No. 2, Employees Provident Fund Organisation, shall issue release communications in respect of Mutation Entry No. 1073 over Revenue Survey/Block No. 207, Account No. 239, Village Naranpura, and Mutation Entry No. 3289 over Revenue Survey/Block No. 101 Paiki, Account No. 366, Village Khoda, Taluka Sanand, District Ahmedabad, insofar as the entries relate to the properties covered by the Certificate of Sale dated 15.06.2021.

37. The Respondent Nos. 1 and 2 shall issue the release communications within 15 days from receipt of this order. Upon receipt of a release communication or a certified copy of this order, the concerned revenue authorities, including the Mamlatdar, Sanand, shall carry out the consequential corrections in accordance with the applicable revenue-record procedure

38. The Liquidator shall, within 30 days, verify from the CIRP records whether Respondent No. 1's claim dated 20.06.2020 was received and collated by the Resolution Professional and shall take a reasoned decision under the IBC and the applicable Liquidation Process Regulations. Any aggrieved person may pursue the remedy under Section 42 of the IBC, subject to the statutory requirements and limitation period.

39. The Liquidator shall maintain an account of the undisbursed reserve towards EPFO and related liabilities, to the extent such amount remains available. Any payment or distribution shall be made in accordance with Section 36(4)(a)(iii) of the IBC, the EPF Act and the subsisting orders of this Tribunal and the appellate courts.

40. The release of the entries shall not reopen the tax assessments, determine the final quantum or ranking of any claim, or alter the distribution mechanism under Sections 52 and 53 of the IBC. The rights of the parties to pursue remedies available under the Code and other applicable laws are preserved.

41. The Applicant shall serve a copy of this order upon both Respondents, the Mamlatdar, Sanand, the concerned revenue authorities and M/s. Profitplus Infra Private Limited within 7 days. The Applicant shall file a compliance report within 45 days, enclosing the release communications and the available updated revenue records.

42. Accordingly, **I.A. No. 285(AHM)2021** in C.P. (I.B.) No. 305/7/NCLT/AHM/2018 is **disposed of** in the above terms. There shall be no order as to costs. The Registry shall communicate this order to the parties and concerned authorities.

-SD-
SANJEEV SHARMA
MEMBER (TECHNICAL)

-SD-
SHAMMI KHAN
MEMBER (JUDICIAL)

Alpesh (PS)