IN THE NATIONAL COMPANY LAW TRIBUNAL

ALLAHABAD BENCH, PRAYAGRAJ

IA No.451/2026 IN CP (IB) No.64/ALD/2017

(An application filed under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 read with Reg. 4 and Reg. 44 of the IBBI [Liquidation Process] Regulations, 2016).

IN THE MATTER OF:

MR. YOGESH GUPTA,
Liquidator for the Corporate Debtor
Having His Office At: Suit No. 2D, 2E and 2F,
12 Ho Chi Minh Sarani, 2nd Floor, Kolkata 700071

…… Applicant/Liquidator

AND IN THE MATTER OF:

VARANASI AUTO SALES LIMITED
(under Liquidation),
Having Address At: J-15/65C & J-15/65C-1A,
Mohalla Alaipur, Ward Jaitpura
Dist.-Varanasi, Uttar Pradesh 221001

……Corporate Debtor

Order Pronounced on: 27.10.2026

CORAM:

Sh. Praveen Gupta	:	Member (Judicial)
Sh. Ashish Verma	:	Member (Technical)

Appearances:

Ms. Zeba Khan with Sh. Saurav Jain Advs.	:	For the Applicant/ Liquidator
Sh. Mihir Gupta, Adv.	:	For the Suspended Director

ORDER

1. This present Application has been filed on 08.07.2026 by Mr. Yogesh Gupta (hereinafter referred to as "*Applicant*"), in his capacity as the Liquidator of Varanasi Auto Sales Limited (hereinafter referred to as "*Corporate Debtor*"), under section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC/Code") seeking inter alia the following prayers:

> *"A. To pass an appropriate order excluding the period from 16.0:3.2021 to 17.06.2026, during which the Applicant was unable to realise Plot No.9 due to circumstances beyond his control, for the purpose of computation of the Liquidator's remuneration under Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016; and / or*
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> *B. Consequently, to direct payment of the Liquidator's remuneration in accordance with Regulation 4 of the IBBI (Liquidation Process) Regulations, 2016, after giving effect to the aforesaid exclusion; and/ or*
>
> *C. To pass such other or further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.*
>
> *D. Such further or other order or orders be passed and direction be given as to this Hon'ble Tribunal."*

2. The brief facts leading to the filing of the present Application are set out herein below:

a. The Applicant submits that, vide order dated 16.03.2021, this Tribunal passed an order for the liquidation of the Corporate Debtor, pursuant to which the Applicant assumed the duties and responsibilities of the Liquidator under Section 35 of the Code.

b. In the course of discharging his statutory duties, the Applicant submits that since the very inception of the liquidation process, he faced serious legal, factual and administrative hurdles in realization of the assets of the Corporate Debtor. Consequently, the Applicant filed two applications i.e., IA (IBC) No. 27 of 2022 and IA (IBC) No. 13 of 2023 under Section 35(1)(m) of the Code, seeking to recover control of the liquidation estate, particularly in respect of the assets retained by the suspended directors of the Corporate Debtor.

c. It is further submitted that subsequently, the liquidation estate of the Corporate Debtor was formed and primarily comprised a parcel of land admeasuring 1.1479 hectares, situated at Arazi No. 9, Mouza Babatpur, Pargana Athgawan, Tehsil Pindra, District Varanasi, Uttar Pradesh (hereinafter referred to as "subject property"), valued at approximately Rs. 35 crores.

d. The Applicant states that the said liquidation estate was exclusively mortgaged to the SBI, thus being the secured creditor of the Corporate Debtor. Subsequent to the commencement of the liquidation process, SBI did not relinquish its security interest in favour of the liquidation estate and continued insisting that possession of the secured asset be handed over to it for independent enforcement of security interest. As a result, in absence of relinquishment under Section 52 of the Code, the Applicant was legally incapable to run the process for the realisation of the subject property.

e. The Applicant further submits that it was only on 20.05.2023, when SBI through an email communicated its relinquishment of security interest, therefore the Applicant was disabled during the period from 16.03.2021 till 20.05.2023 to effectively sell the subject project. The Applicant avers that the delay occasioned by the aforesaid conduct of SBI was entirely beyond the control of the Applicant, and therefore materially affected the liquidation process.

f. Meanwhile, when the aforesaid impediment was ongoing, the Applicant submits that another impediment which came across was the demarcation and identification of boundaries of the subject property in order to ensure proper realisation. The Applicant then filed an application before the Suh-Divisional Magistrate (SDM), Pindra, Varanasi on 17.05.2022. However, the statutory authorities failed to conclude the proceedings. Consequently, the Applicant on 18.06.2022 filed necessary documents before the District Magistrate seeking necessary directions. However, the said proceedings could also not be concluded within 3 months as prescribed under section 24(3) of the UP-Revenue Code 2016.

g. Aggrieved by the delay, the Applicant then approached the Hon'ble High Court, Allahabad, bearing Writ C 26044 of 2022, inter-alia praying for direction in relation to application filed on 17.05. 2022. Subsequently, vide order dated 05.09.2022, the Hon'ble High Court directed the SDM to consider and decide the application expeditiously. In compliance with the same, the Revenue Department on 23.10.2022 carried out the measurement of the subject property and as per the information received, the report was submitted to SDM. Since, no report was provided to the Applicant, he further initiated contempt proceedings against the authorities before the Hon'ble High Court,

Allahabad. The Hon'ble High Court vide order dated 03.07.2023 further directed to comply with its earlier order dated 05.09.2022 within a period of 3 months. As a result, it was only on 02.08.2023 that the Ld. SDM Court passed an order for demarcation of the land.

h. The Applicant submits that during the proceedings before the Ld. SDM Court, the suspended directors placed on record an order dated 25.03.2021 passed by the Ld. Debt Recovery Tribunal, Allahabad ("Ld. DRT"), directing maintenance of status quo in respect of the subject property. It was only upon the production of the said order that the Applicant became aware that the suspended directors, in addition to having instituted proceedings under Section 10 of the IBC, 2016, before this Tribunal, had also initiated proceedings before the Ld. DRT in the year 2018. The Applicant submits that the pendency of the said proceedings before the Ld. DRT had neither been disclosed to him nor brought to the notice of the creditors of the Corporate Debtor.

i. The Applicant submits that he then challenged the order passed by the Ld. DRT before the Hon'ble High Court at Allahabad, however the writ application was dismissed vide order dated 04.03.2024 with liberty to file appropriate application before Ld. DRT or DRAT. The applicant then pursued the proceedings before the Ld. DRT for recalling of the order dated 25.03.2021 and clarification on applicability of Status Quo of the said order, which is presently pending adjudication.

j. Despite the ongoing impediments, the Applicant submits that he continued to make efforts towards realisation of the assets of the Corporate Debtor in accordance with the provisions of the Code. It is stated that, in its meeting held on 15.05.2024, the SCC resolved that no further e-auction process for the sale of the land be initiated until the

order dated 25.03.2021 passed by the Ld. DRT was quashed or vacated. Subsequently, considering the prolonged delay in the liquidation process and with a view to maximising the value of the assets of the Corporate Debtor, the SCC, in its meeting held on 20.07.2024, resolved that the Applicant proceed with the e-auction process notwithstanding the subsistence of the aforesaid order passed by the Ld. DRT, subject to the condition that the said order and the pending litigation be fully disclosed in all e-auction documents and sale-related publications for the information of prospective bidders.

k. The Applicant submits that, pursuant to the aforesaid decision of the SCC, he thereafter undertook successive e-auction attempts for the sale of the assets of the Corporate Debtor. The details of the e-auctions conducted by the Applicant are set out hereinbelow:

Number of Auction	Date of publication	Date of Auction	Reserve Price (Rs.)
1st	19.12.2023	No Auction	37,00,00,000
2nd	15.01.2024	No Auction	33,00,00,000
3rd	12.03.2024	No Auction	29,97,00,000
4th	05.04.2024	No Auction	29,97,00,000
5th	05.08.2024	No Auction	29,97,00,000
6th	26.11.2024	No Auction	28,47,15,000
7th	17.04.2026	No Auction	34,42,00,000
8th	12.05.2026	12.06.2026	34,42,00,000

l. In view of the above e-auctions undertaken, the Applicant submits that it was only in the 8th e-auction that the asset of the Corporate Debtor was successfully sold and further confirmed in the 24th SCC meeting held on 17.06.2026. The successful bidder duly complied with all the terms and conditions of the auction process and remitted the entire sale consideration of Rs. 34,42,00,000/-. Consequently, the Applicant issued

the Sale Certificate on 23.06.2026, which was duly registered on 01.07.2026 in favour of the Successful Auction Purchaser.

3. In view of the aforesaid facts and circumstances, the Applicant has filed the present Application seeking exclusion of the period from 16.03.2021 to 17.06.2026, solely for the purpose of computation of the Liquidator's fee. The Applicant submits that, notwithstanding the various legal and other impediments encountered during the liquidation process, he acted diligently, transparently and bona fide in discharging his duties as Liquidator. It is further submitted that, owing to the aforesaid circumstances, the Applicant could not complete the liquidation process within the period prescribed under Regulation 44 of the IBBI (Liquidation Process) Regulations, 2016, and was, therefore, constrained to seek extensions of the liquidation period from time to time.

4. It has been observed that during the course of hearing on 15.07.2026, the Applicant was directed to file a short affidavit as to the determination of the remuneration of the Applicant. The relevant excerpts of the order dated 15.07.2026 is reproduced below:

> *"2. Ld. Counsel representing the Applicant/ Liquidator states that the prayer is for payment of liquidator's remuneration in accordance with the Regulation 4 of the IBBI (Liquidation Process) Regulations, 2016. She further prayed that though no remuneration has still been paid, however there is no specific*

amount of the remuneration which has been computed so far, which would become due for payment for the previous years.

3. Let the same be filed by way of a short affidavit within a period of three days and this application be put up on 28th July, 2026, to be taken up higher on Board."

5. In compliance with the aforesaid order, the Applicant filed a Supplementary Affidavit dated 23.07.2026, placing on record the details of the outstanding fee claimed by him, duly collated and computed in accordance with Regulation 4 of the IBBI (Liquidation Process) Regulations, 2016. The relevant table setting out the computation of the Liquidator's fee is reproduced herein below for ready reference:

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CALCULATION OF LIQUIDATOR'S FEE AS PER REGULATION 4 OF LIQUIDATION PROCESS REGULATIONS: 2016

(considering the realization and distribution in the first Six Month after considering the exclusion sought in the prayer).

(i) Liquidator fee on Realization (Percentage of Fee on the amount realized in the first six months)	
As per Regulation 4 of Liquidation Process Regulations 2016	
Amount Realised excluding Liquidation cost	34,42,00,000
Less Liquidation Cost	3,21,41,312
Net Realized amount	31,20,58,688
Table as per Regulation 4	
First 1 crore 5%	5,00,000
from 2 crores to 10 crores 3.75%	33,75,000
from 11 crores to 40 crores 2.5%	53,01,467
Total	**91,76,467**
Add Gst:	16,51,764
Fees for Realization	**1,08,28,231**

(ii) Liquidator fee on Distribution (Percentage of Fee on the amount distributed in the first six months)	
Amount Distributed	29,20,02,316
First 1 crore 2.5%	2,50,000
from 2 crores to 10 crores 1.88%	16,92,000
from 11 crores to 40 crores 1.25%	24,00,029
Total	**43,42,029**
Add Gst:	7,81,565
Fees for Distribution	**51,23,594**
Total Liquidator Fees:	**1,59,51,825**

6. The Applicant also vide a written note filed on 18.09.2026, has further set out the reasons necessitating exclusion of the aforesaid period, attributing the delay in completion of the liquidation process to extraordinary circumstances, legal impediments and other hindrances encountered during the course of liquidation. The Applicant has summarised the aforesaid circumstances in a tabulated form, which is reproduced hereinbelow for ready reference:

Sl No	***Date***	***Event***
1.	*16.03.2021*	*Liquidation commencement date*
2.	*25.03.2021*	***Status Quo*** *order passed by the Learned RT Allahabad m SA 713/2018 Filed by the Suspended board of directors, despite the CIRP having been initiated under Section 10 by the CD itself. Liquidator was not made aware or intimated about the said order until after the demarcation order was passed.*
3.	*17.05.2022*	*Liquidator took steps to get the land demarcated with the Revenue Authorities and filed an application under Section 24 of the UP Revenue Code*
4.	*05.09.2022*	*Order passed by the Hon'ble Allahabad High Court directing the Sub-Divisional Magistrate to expeditiously decide the demarcation application*
5.	*20.05.2023*	*The sole land charged with State Bank of India was relinquished into the Liquidation estate via email on 20.05.2023, as SBI was unable to sell the property independently due to the embargo with status quo*
6.	*20.08.2023*	*Land was finally demarcated in the interregnum, Writ Petition and Contempt Petition was filed due to delay on the part of the authorities to demarcate the land The status quo order of the DRT was brought to the Liquidator's knowledge for the first time following third-party objections*
7.	*04.03.2024*	*Order passed by the Hon'ble Allahabad High Court In Writ Petition No 31611/2023 filed by the Liquidator dismissing the writ with liberty to approach the Learned DRT Allahabad*
8.	*15.03.2024*	*IA 2423/2024 Filed before the Learned DRT, Allahabad for recalling the status quo order dated 25.03.2021*

		Currently pending as the Learned DRT Allahabad has had a vacancy since 20.12.2024 and the vacancy has been filled by giving additional charge to Learned PO of DRT Jaipur as such, matters are unable to reach despite efforts
9.	*12.04.2024*	*The Liquidator filed Hearing Application under Section 151 CPC filed before the Learned DRT Allahabad in SA No. 730 of 2018.* *Currently pending as the Learned DRT Allahabad Bench has had a vacancy Since 20.12.2024 and the vacancy has been filled by giving additional charge to Learned PO of DRT Jaipur as such, matters are unable to reach despite efforts*
10.	*26.01.2025*	*The Liquidator filed Clarification IA filed before the Learned DRT, Allahabad, for clarification of Order dated 25.03.2021.* *Currently pending as the Learned DRT Allahabad Bench has had a vacancy Since 20.12.2024 and the vacancy has been filled by giving additional charge to Learned PO of DRT Jaipur as such, matters are unable to reach despite efforts.*
11.	*15.05.2024*	*SCC in its 9th SCC Meeting had unanimously resolved to defer auction attempts pending vacation of DRT order*
12.	*20.07.2024*	*SCC in its 10th SCC Meeting unanimously resolved to proceed with e-auctions with full disclosures of pending litigation*
13.	*E-auctions held*	*Total 8 e-auction attempts conducted by the Liquidator* • *19.12.2023* • *15.01.2024* • *12.03.2024* • *05.04.2024* • *05.08.2024* • *26.11.2024* • *17.04.2026* • *12.05.2026*
14.	*17.06.2026*	*During the meeting of the creditors held on 17.06.2026, the successful bid for Rs.34.42 Crores was confirmed. Sale Certificate issued on 23.06.2026 and registered on 01.07.2026*

7. We have heard the Ld. Counsel appearing for the Applicant/Liquidator and perused the material available on record. The question that arises for consideration is whether, in the facts and circumstances of the present case,

the period from 16.03.2021 to 17.06.2026 merits exclusion for the limited purpose of computation of the Liquidator's remuneration under Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 ("*Liquidation Process Regulations*").

8. Regulation 4 of the Liquidation Process Regulations governs the determination of the fee payable to a Liquidator. Regulation 4(1) provides for the fee to be paid in accordance with the decision taken by the Committee of Creditors under Regulation 39D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. In cases where the fee is not determined in the manner contemplated under Regulation 4(1), the applicable framework under Regulation 4(2) governs the computation of the fee, including by reference to the amount of realization and distribution and the prescribed time periods, as applicable. The time taken for realization and distribution may, therefore, have a material bearing on the computation of the Liquidator's fee under the percentage-based framework.

9. In the present case, the Applicant relies upon the fee arrangement stated to have been approved by the in its 4th CoC meeting held on 06.10.2018, under which the fee was to be determined in accordance with Regulation 4 or at the rate of Rs. 3,00,000/- per month, whichever was higher. The Applicant's

remuneration must accordingly be determined with reference to the applicable regulatory provisions and the terms of the fee arrangement.

10. The material placed on record indicates that the principal asset of the Corporate Debtor comprised land situated at Arazi No. 9, Mouza Babatpur, Pargana Athgawan, Tehsil Pindra, District Varanasi, Uttar Pradesh. The realization of this asset was affected by multiple legal and procedural impediments. At the commencement of liquidation, the property was subject to a mortgage/security interest in favour of the State Bank of India (SBI), which did not initially relinquish its security interest and, as stated by the Applicant, insisted upon taking possession of the property for independent enforcement of its security. The security interest was relinquished only on 20.05.2023, thereby delaying the Applicant's ability to proceed with realization of the property as part of the liquidation estate. In addition, a status quo order dated 25.03.2021 passed by the Ld. DRT, Allahabad, and the proceedings concerning demarcation and identification of the property further impeded its sale. The record indicates that the Applicant approached the revenue authorities for demarcation and pursued proceedings before the Hon'ble Allahabad High Court when the matter was not concluded within the prescribed period. The Applicant also took steps before the appropriate forum in relation to the DRT's status quo order. Further, the Stakeholders' Consultation Committee initially deferred the auction in view of the pending

proceedings and subsequently resolved to proceed with the sale subject to full disclosure of the pending litigation.

11. Section 35 of the Code sets out the powers and duties of the Liquidator, including taking custody and control of the assets of the Corporate Debtor and realizing the liquidation estate in accordance with law. The Liquidator is required to discharge these duties while respecting subsisting judicial orders and taking appropriate steps to resolve legal impediments affecting the assets. Therefore, the relevant consideration is whether the material on record establishes that the delay was substantially attributable to circumstances beyond the Liquidator's control, and whether the Liquidator acted with reasonable diligence to overcome those impediments and pursue realization of the liquidation estate.

12. Applying the above considerations to the present case, we observe that the property was subject to a status quo order passed by the Ld. DRT, Allahabad, and that proceedings relating to its demarcation also remained pending before the revenue authorities. The Applicant has placed on record the steps taken before the revenue authorities and the Hon'ble Allahabad High Court, as well as the subsequent proceedings initiated in relation to the DRT order. The record further reflects that the Stakeholders' Consultation Committee considered the implications of the pending proceedings for the proposed sale and ultimately resolved to proceed with the auction with appropriate

disclosure of the litigation. The Applicant thereafter undertook successive auction attempts, culminating in confirmation of the successful bid for Rs. 34,42,00,000/- on 17.06.2026. The Sale Certificate was subsequently issued on 23.06.2026 and registered on 01.07.2026. These circumstances indicate that the Applicant continued to take steps towards realization of the principal asset notwithstanding the legal and procedural impediments encountered.

13. Having regard to the nature of the asset, the proceedings affecting its realization, the steps taken by the Applicant before the competent authorities and forums, the decisions of the Stakeholders' Consultation Committee, and the eventual realization of the asset, we are satisfied that the delay in completing the sale cannot, on the material presently available, be attributed solely to inaction or lack of diligence on the part of the Applicant. In the circumstances of this case, and for the limited purpose of determining remuneration, we consider it appropriate to grant the exclusion sought for the period from 16.03.2021 till 17.06.2026 for computation of Liquidator's fees.

14. We further clarify that the present exclusion granted herein is confined strictly to the computation of the Liquidator's remuneration under Regulation 4 of the Liquidation Process Regulations. It shall not be construed as excluding the said period for any other purpose under the Code or the Liquidation Process Regulations, or as dispensing with any other

statutory or regulatory requirement for completion of the liquidation period of the Corporate Debtor.

15. In view of the foregoing facts and circumstances, the application is allowed to the extent indicated above. Accordingly, the period from 16.03.2021 to 17.06.2026 is excluded solely for the purpose of computation of the Applicant/Liquidator's remuneration under Regulation 4 of the Liquidation Process Regulations, subject to the applicable fee arrangement, verification of the relevant amounts and compliance with the applicable provisions of law. This exclusion is allowed in peculiar facts and circumstances of this case and shall not be treated as a precedent.

16. Accordingly, the present I.A. 451 of 2026 is allowed and stands disposed of.

-Sd-
(Ashish Verma)
Member (Technical)

-Sd-
(Praveen Gupta)
Member (Judicial)

Date: 27.10.2026