



S.No.2

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1  
VC AND PHYSICAL (HYBRID) MODE  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
27-02-2026 AT 12:15 PM**

**CP(IB) No. 277/7/HDB/2023**

**AND**

**IA (IBC) 512, 732 & 1935/2025 in CP(IB) No. 277/7/HDB/2023**

u/s. 7 of IBC, 2016

**IN THE MATTER OF:**

JM Financial Asset Reconstruction Company Limited     **...Financial Creditor**

**AND**

KOBO Biotech Limited     **...Corporate Debtor**

**C O R A M :-**

SH. RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)

SH. SANJAY PURI, HON'BLE MEMBER (TECHNICAL)

**ORDER**

**IA (IBC) 512/2025**

**Present:** Smt. M S Mano Ranjani, Ld. Counsel for the Applicant.

Ms. Sumathi, Ld. Counsel for Respondents No.1 to 3.

**Orders pronounced, recorded vide separate sheets.**

**In the result, this application is dismissed.**

**IA (IBC) 732/2025**

**Present:** Smt. M S Mano Ranjani, Ld. Counsel for the Applicant.

Ms. Sumathi, Ld. Counsel for Respondents No.1 to 3.

**Orders pronounced, recorded vide separate sheets.**

**In the result, this application is not maintainable and hence dismissed.**

**IA (IBC) 1935/2025**

**Present:** Ms. Sumathi, Ld. Counsel for Applicant.

Smt. M S Mano Ranjani, Ld. Counsel for the Respondents

**Orders pronounced, recorded vide separate sheets.**

**In the result, this application is dismissed.**

**Sd/-**

**MEMBER (T)**

**Sd/-**

**MEMBER (J)**



**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH-1**

**IA No. 732/2025  
In  
CP(IB) No. 277/7/HDB/2023**

[Application under Section 60(5) read with Sections 14 and 238 of the Insolvency and  
Bankruptcy Code, 2016]

**IN THE MATTER OF M/S. KOBO BIOTECH LIMITED  
(COMPANY UNDER CIRP)**

**M/s. Kobo Biotech Limited,**

Represented by its RP Ms Namrata Amol Randeri,  
Address at 215, Laxmi Plaza, Laxmi Indl Est.,  
New Link Rd, Andheri (W), Mumbai - 400053

**... Resolution Professional/Applicant**

**AND**

**1. The Deputy State Tax Officer,**

Manjeeranagar, Beside BVM School,  
Sangareddy Bypass, Sangareddy District,  
Telangana - 502001.

**....Respondent No.1**

**2. The Assistant Commissioner (ST),**

Sangareddy - II Circle, Manjeera Pipeline Road,  
Sangareddy District, Telangana - 502001

**....Respondent No.2**

**Date of Order: 27.02.2026**

**Coram:**

Hon'ble Shri Rajeev Bhardwaj, Member (Judicial)

Hon'ble Shri Sanjay Puri, Member (Technical)

**Counsels Present**

For the Applicant : Ms. Mano Ranjani

For the Respondents : Mr. Anvesh Reddy



The Application is filed by Ms. Namrata Amol Randeri, Resolution Professional (RP) of **M/s. Kobo Biotech Limited** (Corporate Debtor/CD), seeking appropriate directions for removal of the attachment created by the Respondents over the land belonging to the CD, which is impeding the Corporate Insolvency Resolution Process (“CIRP”) of the CD.

### **APPLICANT’S SUBMISSIONS**

1. M/s. Kobo Biotech Limited, formerly known as Avon Organics Limited, was admitted into CIRP on 13.08.2024 pursuant to a Section 7 application filed by JM Financial ARC Limited (JM Financial). Initially, Mr. Ravindra Chaturvedi was appointed as Interim Resolution Professional and later as Resolution Professional. Thereafter, by order dated 17.01.2025 in IA (IBC) No. 85/2025, the present Applicant was appointed as the RP.
2. The CD is the owner of land admeasuring 29.11 acres situated in Survey Nos. 18, 19, 20C, 21A and 21B at Yawapur Village, Sadashivpet Mandal, District Sangareddy, Telangana (“Subject Property”). Out of the said extent, 18.00 acres are mortgaged to JM Financial as the sole secured creditor, while 11.11 acres stand in the name of Avon Organics Limited (presently Kobo Biotech Limited) and are not mortgaged.
3. The CD had earlier availed tax deferment benefits under the APGST regime and had mortgaged its assets, including the Subject Property, as a condition for such deferment. Upon failure to repay deferred tax and regular tax dues for the period from Financial Year 2000 to 2013–14, proceedings were initiated under the Revenue Recovery Act, 1864 and the Subject Property was attached vide Gazette Notification dated 21.02.2015.
4. Subsequently, Karur Vysya Bank Limited and Axis Bank assigned their respective debts along with underlying securities, including the properties to JM Financial in March 2016 by way of separate Assignment Deeds. By virtue of the said Assignment Deeds, JM



Financial stepped into the shoes of the assignor banks and acquired all rights, title, interest and benefits in respect of the assigned debts and securities

5. Thereafter, JM Financial filed Writ Petition No. 29751 of 2018 before the Hon'ble High Court for the State of Telangana, to declare the Notice of Attachment and the Notice of Sale dated 23.07.2018 issued by Respondent No. 1 for recovery of tax arrears as illegal in respect of the secured assets over which security interest had been created in favour of JM Financial, and for setting aside the same. By order dated 24.08.2018, the Hon'ble High Court directed to maintain status quo.
6. Thereafter, in IA No. 1 of 2019 filed in the said Writ Petition, the Respondents sought permission to sell the plant and machinery. JM Financial raised no objection, subject to participation in fixing the reserve price and safeguarding of proceeds. By order dated 18.09.2019, the Hon'ble High Court permitted the sale with such safeguards and directed that, if JM Financial succeeded, the sale proceeds be remitted to it with interest at the highest applicable bank FD rate. Pursuant thereto, the plant and machinery situated on the Subject Property were sold for a consideration of Rs. 1,97,80,000/-, and the sale proceeds were deposited with Respondent No. 1.
7. After admission of CD into CIRP, the RP informed the Respondents regarding initiation of CIRP and the imposition of moratorium, and requested removal of the attachment over the Subject Property. Despite repeated communications, no steps were taken. On 31.12.2024, Respondent No. 1 addressed an email to the RP referring to certain issues concerning change of name of the CD and the use of the same PAN with separate GST registrations in Telangana (Avon) and Maharashtra (Kobo), and stated that clarification was being sought from the Commissioner of Commercial Taxes, Hyderabad.



8. Respondent No. 1 has filed a claim in the CIRP for Rs. 74,75,97,457/- towards VAT and CST dues. The RP has provisionally admitted a claim of Rs. 12,66,30,369/-.
9. The Applicant submits that upon commencement of CIRP, a moratorium under Section 14 of the Code came into force, which inter alia prohibits institution or continuation of proceedings against the CD and any action to foreclose, recover or enforce any security interest created by the CD in respect of its property. It is further contended that in view of Section 238 of the Code, the provisions of the Code override any inconsistent provisions under other laws. The continued attachment over the Subject Property, according to the Applicant, is hampering the CIRP, and therefore seeks appropriate directions for removal of the attachment and consequential reliefs.

#### **COUNTER BY RESPONDENTS**

10. At the outset, it is contended that the Application filed by the RP is not maintainable either in law or on facts. It is submitted that the attachment over the subject property was effected by the competent authority of the Sales Tax Department long prior to the commencement of the CIRP and therefore cannot be disturbed by invoking the moratorium under Section 14 of the Code.
11. The CD stood indebted to the Sales Tax Department in an aggregate sum of ₹74,75,97,457/- (Rupees Seventy-Four Crores Seventy-Five Lakhs Ninety-Seven Thousand Four Hundred Fifty-Seven only), comprising tax, interest and penalties under the APGST Act, 1957, AP VAT Act, 2005 and Telangana VAT Act, 2014, pertaining to the financial years 1999–2000 to 2013–14.
12. The CD had availed benefits under the Tax Deferment Scheme pursuant to G.O. Ms. No. 108 dated 25.05.1996 and had mortgaged its immovable property and plant & machinery to avail the said benefit. Though tax was deferred for 14 years, after expiry of the deferment



period the CD failed to pay both deferred instalments and regular tax dues, resulting in accumulation of arrears. The Company ceased business operations in January 2014.

13. In exercise of statutory powers under Section 24 of the TVAT Act, the jurisdictional authority issued a notification dated 21.02.2015, published in the Medak District Gazette, attaching the CD's immovable property situated at Yawapur Village, Sadashivpet Mandal, Sangareddy District. It is stated that the attachment order was duly served and went unchallenged within the statutory appeal period and thereby attained finality long before commencement of CIRP.
14. The Respondents rely upon the judgment of the Hon'ble Supreme Court in **State Tax Officer v. Rainbow Papers Ltd. (2022) SCC OnLine SC 1162**, and submit that a statutory first charge confers secured creditor status upon the State within the meaning of Section 3(30) of the Code, and such secured claims cannot be overridden by the CIRP process. It is contended that Section 24 of the Telangana VAT Act creates a statutory first charge on the property of the dealer in respect of unpaid tax, interest and penalty. Such statutory charge, according to the Respondents, constitutes a "security interest" within the meaning of Section 3(31), and is therefore protected by Section 53 of the Code. Since the attachment predates the insolvency commencement date and was effected through due process of law, the moratorium under Section 14 of the Code, being prospective in nature, cannot retrospectively nullify rights that have already crystallized.
15. The Respondents contend that reliance on the case of **TANGEDCO v. Tax Recovery Officer** is misplaced, as it arose in the context of SARFAESI without any statutory first charge analogous to Section 24 of the TVAT Act. Further reliance is placed on **Tapadia Polyesters Pvt. Ltd. v. Sales Tax Officer**, wherein the Hon'ble NCLAT held that pre-CIRP attachments attaining finality cannot be reopened under Section



60(5) of the IBC and must be treated as secured interests within the liquidation waterfall.

16. It is submitted that Section 238 of the IBC does not extinguish validly created statutory charges but operates subject to the distribution mechanism under the Code. In the absence of an approved resolution plan under Section 31(1), government dues are not extinguished; and that a secured creditor cannot be compelled to relinquish its security under Section 52. The Sales Tax Department, having neither relinquished nor been compensated, retains its enforcement rights, and recovery of tax being a sovereign function under Article 265, removal of attachment would be impermissible.
17. Accordingly, the Respondents sought dismissal of the application and recognition of the Sales Tax Department as a secured creditor for ₹74,75,97,457/- with priority under Section 53(1)(b)(ii) of the Code.

## **REJOINDER**

18. It is submitted that the cause of action arises from the Respondents' continued retention and subsisting attachment over the CD's immovable property, thereby creating a continuing encumbrance that frustrates the object and scheme of the IBC, particularly Sections 14 and 238.
19. It is submitted that upon commencement of CIRP, Section 14 of the IBC prohibits institution or continuation of any recovery or enforcement proceedings against the assets of the CD. The attachment dated 21.02.2015 does not divest the CD of ownership. The RP has admitted only Rs. 12,66,30,369/- after due verification. Attachment under the Revenue Recovery Act is merely a mode of recovery and does not create proprietary rights.
20. Reliance is placed on ***Innoventive Industries Ltd. v. ICICI Bank [(2018) 1 SCC 407]***, wherein the Hon'ble Supreme Court held that upon declaration of moratorium under Sections 13 and 14, all recovery and



enforcement actions must remain in abeyance. The deferment scheme created only a charge and not a proprietary interest, and such charge stands subordinated to the collective insolvency process.

21. The attachment dated 21.02.2015, though published in the Medak District Gazette, has not resulted in any transfer or divestment of title. The Subject Property admeasuring 21.25 acres includes 18 acres mortgaged to JM Financial, the sole secured creditor. The property forms part of the secured assets under Section 3(31) and the assets of the CD under Section 18(f) of the IBC. The plea that the attachment has attained finality is denied, with reference to the status quo order in W.P. No. 29751/2018 before the Hon'ble Telangana High Court. It is contended that continuation of the attachment after commencement of CIRP on 13.08.2024 is barred under Section 14(1)(a) and is inoperative.
22. It is submitted that ***Rainbow Papers (supra)***, dealt with treatment of statutory dues under Section 53 and did not hold that pre-CIRP attachments survive the moratorium under Section 14 or curtail the RP's powers under Section 18. Further reliance is placed on ***Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd. [(2023) SCC OnLine SC 1467]***, wherein it was held that statutory dues constitute operational debt and that Section 53 overrides first charges under other enactments.
23. It is submitted that in ***Tapadia Polyesters Pvt. Ltd. (supra)***, the Hon'ble NCLAT observed that attachment under state VAT laws does not divest the CD of ownership. It further distinguished ***Rainbow Papers (supra)***, and noted that where statutory provisions are expressly made subject to Central enactments such as the IBC, the State cannot claim priority inconsistent with the Code.
24. It is submitted that the CIRP is presently ongoing, Expressions of Interest have been received, and irrespective of the stage of resolution, the provisions of the IBC govern the process. The Hon'ble Supreme



Court in ***Swiss Ribbons Pvt. Ltd. Union of India [(2019) 4SCC 17]***, ***Ghanshyam Mishra & Sons Pvt. Ltd. v. Edelweiss ARC [(2021) 9 SCC 657]*** and ***Paschimanchal Vidyat Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd. [(2023) SCC Online SC 1467]*** has consistently held that government dues are operational debts subject to Section 53 and that Section 238 of IBC overrides inconsistent state legislation.

25. It is further submitted that under Entry 9 of List III, Parliament has enacted a comprehensive insolvency regime that prevails over inconsistent state fiscal laws. In ***Innoventive Industries Ltd. (supra)***, the Hon'ble Supreme Court held that once the IBC is triggered, it overrides all inconsistent enactments.

#### **ANALYSIS AND FINDINGS**

26. The Corporate Debtor, M/s. Kobo Biotech Limited, formerly known as Avon Organics Limited, is the owner of land admeasuring 29.11 acres situated in Survey No. 18, 19, 20C, 21A and 21B at Yawapur Village, Sadashivpet Mandal, Sangareddy District, Telangana. Out of the said extent, 18.00 acres in Sy. No. 18, are mortgaged in favour of JM Financial ARC Limited, the sole secured creditor.
27. The Corporate Debtor had availed Tax Deferment benefits under the APGST regime, subject to mortgage of its assets including the Subject Property and plant and machinery. Upon alleged default in repayment of deferred tax instalments and regular tax dues for the financial years 1999–2000 to 2013–14, the Sales Tax Department initiated recovery proceedings and issued an attachment notification dated 21.02.2015 under the Revenue Recovery Act<sup>1</sup>.
28. In the meanwhile, certain financial debts were assigned to JM Financial ARC Ltd. by Karur Vysya Bank and Axis Bank in March 2016. JM Financial challenged the said attachment before the Hon'ble High Court

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<sup>1</sup> Annexure A-04 of the Application at page 36-37



of Telangana in W.P. No. 29751 of 2018, and the Hon'ble High Court issued a *status quo* order on 24.08.2018<sup>2</sup>. Pursuant to an Interim Application filed by the Respondents, the Hon'ble High Court, vide order dated 18.09.2019<sup>3</sup>, permitted sale of the plant and machinery, subject to involvement of officers of JM Financial ARC Ltd. in the sale process. The plant and machinery were sold for Rs. 1,97,80,000/-, and the said amount was deposited with the Commercial Tax Department with a condition imposed by the Hon'ble High Court that in the event JM Financial ARC Ltd. succeeds in the writ proceedings, the sale proceeds shall be remitted to it along with interest at the highest applicable bank fixed deposit rate. Thus, the legality and effect of the attachment over the Subject Property as well as the consequential actions in respect of the plant and machinery form part of the proceedings presently sub judice before the Hon'ble High Court.

29. After commencement of CIRP on 13.08.2024, the Resolution Professional informed the Respondents about the moratorium under Section 14 of the Code, and sought removal of attachment over the Subject Property. Despite correspondence, the Respondents did not accede to the request. Thereafter, the Respondent No.1 filed a claim in the CIRP for Rs. 74,75,97,457/-, out of which Rs. 12,66,30,369/- has been provisionally admitted by the Resolution Professional.
30. Aggrieved by the continued subsistence of the attachment, the present Application has been filed seeking removal of the attachment in view of the moratorium declared under Section 14 of the Code.
31. It is not in dispute that the attachment of the subject land was effected on 21.02.2015 under the Telangana Value Added Tax Act, 2005, much prior to commencement of CIRP on 13.08.2024 under the IBC. It is equally undisputed that no sale has taken place pursuant to such attachment and that the Corporate Debtor continues to remain the

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<sup>2</sup> Annexure A-05 of the Application at page 38-41

<sup>3</sup> Annexure A-06 of the Application at page 42-45



owner of the property. A statutory attachment for recovery of tax dues, by itself, does not divest ownership but operates as a charge or encumbrance to secure recovery.

32. The Applicant has relied upon Sections 14, 18, 25 and 238 of the IBC and upon the judgments of the Hon'ble Supreme Court in *Ghanashyam Mishra and Sons Pvt. Ltd. v. Edelweiss ARC (Supra)*, *Paschimancal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd. (Supra)*, *Swiss Ribbons Pvt. Ltd. v. Union of India (Supra)*, and *State Tax Officer v. Rainbow Papers Ltd. (Supra)*, to contend that the moratorium prohibits continuation of recovery proceedings including tax recovery and that statutory dues must be dealt with in accordance with Section 53 of the Code.
33. Per contra, learned counsel for the Respondents submitted that in view of the judgment in *Rainbow Papers Ltd (Supra)*, the Respondents are not only "secured creditors" within the meaning of Section 3(30) of the IBC, but that by virtue of the non-obstante clause in Section 24 of the TVAT Act, the first charge created on the property of the Corporate Debtor constitutes a "security interest" under Section 3(31) of the IBC and is therefore protected in the waterfall under Section 53.
34. Both the IBC and the TVAT Act are special statutes containing non-obstante clauses. The question which arises is not merely the interplay between the two enactments, but whether the issue of validity and subsistence of the attachment, which is already pending before the Hon'ble High Court and in respect of which a status quo order dated 24.08.2018 is operating, can be adjudicated by this Authority in exercise of jurisdiction under the IBC.
35. A situation analogous in principle came up for consideration before the Hon'ble Supreme Court in ***S. Rajendran v. Deputy Commissioner of Income Tax (Benami Prohibition) (2026) ibclaw.in 105 SC***, wherein the issue concerned the supremacy of the IBC vis-à-vis the Benami



Property Transactions Act, 1988 in the context of a notice issued under Section 24(1) of the Benami Act. After analysing the scheme of both statutes and relying inter alia upon *State Bank of India v. Union of India* (2026) *ibclaw.in* 85 SC and *Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta* (2021) *ibclaw.in* 44 SC, the Hon'ble Supreme Court held:

*“20.6. What emerges from the foregoing analysis is that the jurisdiction of authorities under IBC cannot be expansively construed so as to trench upon fields that are founded in public law domain. Where the subject matter of the dispute pertains to the exercise of sovereign statutory power, particularly in relation to determination of legality of title, attachment, or confiscation and vesting thereof, the adjudicatory fora under the IBC must necessarily yield to the specialised mechanism created by such statute. Proceedings under Benami Act squarely fall within the public law domain. They are not in the nature of inter se disputes between private parties concerning proprietary rights, nor are they recovery proceedings capable of being subsumed within insolvency resolution. The Benami Act represents a sovereign exercise aimed at identifying and extinguishing benami transactions. The attachment and eventual confiscation of property thereunder operate in rem and culminate in vesting of the property in the Central Government free from encumbrances. Such consequences are penal and deterrent, rooted in statutory illegality, and are enforced through a distinct adjudicatory hierarchy whose jurisdiction is expressly insulated from ordinary civil fora.....”*

36. In view of the enunciation of law, it is to be noted that the attachment under the TVAT Act is already the subject matter of challenge before the Hon'ble High Court and is governed by a subsisting *status quo* order. The question whether such attachment, founded upon a statutory first charge and sovereign recovery powers, stands eclipsed or overridden by subsequent initiation of CIRP, necessarily involves examination of the validity and effect of action taken under the TVAT Act, an issue squarely within the domain of the Hon'ble High Court where the matter is pending.



37. In view of the above discussion, this Authority is of the considered opinion that the Resolution Professional ought to seek appropriate relief before the Hon'ble High Court of Telangana in the pending proceedings.
38. Accordingly, the present application is disposed of as not maintainable, with liberty as aforesaid. No order as to costs.

**Sd/-**

**SANJAY PURI  
MEMBER (TECHNICAL)**

**Sd/-**

**RAJEEV BHARDWAJ  
MEMBER (JUDICIAL)**