

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

3. IA/35/2026 C.P. (IB)/4216(MB)2018

IN THE MATTER OF

Central Bank Of India
Vs
Loyal Auto Globe Private Limited

U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 15.05.2026

CORAM:
SH. NILESH SHARMA
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Petitioner:

For the Respondent:

ORDER

IA/35/2026: The above IA is listed for pronouncement of the order. The same is pronounced in open court, vide a separate order.

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)
//Rahul//

Sd/-
NILESH SHARMA
Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBI BENCH, COURT - V**

**I.A. No.35/MB/C-V/2026
IN
C.P. NO. 4216(IB)/MB/2018**

*(Under Section 60(5) r/w section 33(5) of the
Insolvency and Bankruptcy Code, 2016 r/w
Liquidation Regulations.)*

Solvenza Advisory LLP, Liquidator

(Liquidator of Loyal Auto Globe Private
Limited)

Having his address at A-S01, Shanti
Heights, Plot No. 2,3,9B/10, Sector 11,
Koparkharine, Thane, Navi Mumbai,
Maharashtra, 400709

....Applicant/ Liquidator

VERSUS

1. The State Of Maharashtra (Eow)

Senior Inspector in Charge, EOW, Unit-VII,
DCB, CID, Mumbai through Public
Prosecutor, High Court Bombay

2. The Competent Authority

Administrative Building, (Consumer Court)
10th Floor, Government Colony, Mumbai-
400051

3. Central Bank of India

Central office at "Chandra Mukhi",
Nariman Point, Mumbai-400 021

And Assets Recovery Branch at 346,
Standard Building, Fort, Mumbai- 400 001

4. Radheshyam Shyamlal Gupta

Anuradha Satyamurthi Building, 5th Floor,
11th Road, Juhu, Mumbai- 400049

5. Sharad S. Gupta

102, Suraj Building, Gajdhar Bandh Road,
Santacruz (West), Mumbai- 400054

...Respondents

IN THE MATTER OF:

Central Bank of India

...Financial Creditor/ Petitioner

VERSUS

Loyal Auto Globe Private Limited

...Corporate Debtor/ Respondent

Order Delivered on: 15.05.2026

Coram:

Hon'ble Sh. Nilesh Sharma, Member (Judicial)

Hon'ble Sh. Charanjeet Singh Gulati, Member (Technical)

Appearances:

For the Applicant/ Liquidator : Adv. Manoj Mishra i/b Mishra Legal (PH)

For the Respondent: Arguing Counsel Mr. Anjani Kumar Singh
a/w Prince Kumar Upadhyay (R-5) (PH)

ORDER

I.A. No.35/MB/C-V/2026

1. The Present Application has been filed by **Solvenza Advisory LLP**, (“**Applicant/ Liquidator**”), the Liquidator of Loyal Auto Globe Private Limited (“**Corporate Debtor**”) under section 60(5) read with section 33(5) of the Insolvency and Bankruptcy Code, 2016 (“**IBC/ the Code**”) read with Liquidation Regulations, seeking approval under section 33(5) of the Code to the Applicant Liquidator of the Corporate Debtor, for instituting necessary Application/s in main CR No. 91/2011 in MPID Special Case No. 1/2011 before the Ld. Sessions Court, Mumbai against the Respondent/s seeking for releasing/lifting MPID attachment placed upon Scheduled Properties of Corporate Debtor vide MPID Notification dated 01.02.2012 under Section 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, as detailed in Schedule-I of this Application.

Description of Parties :

2. The Applicant in his official capacity as Liquidator of the Corporate Debtor, has preferred the present Application seeking the permission of this Tribunal to institute appropriate legal proceedings as per Section 33(5) of the Code against the Respondents.
3. The State of Maharashtra at the instance of Senior Inspector in Charge, EOW through Public Prosecutor, High Court, Bombay (“**Respondent no.1**”), The Competent Authority (“**Respondent no.2**”), the Central Bank of India (“**Respondent no.3/ Financial Creditor**”), Mr. Radheshyam Shyamlal Gupta (“**Respondent no.4**”) and Mr. Sharad S. Gupta (“**Respondent no.5**”), the Suspended directors of the Corporate Debtor are all the Respondents in the present matter.

Facts as per the Application, in brief :

4. The Corporate Debtor was admitted into CIRP vide the Order of this Tribunal dated 12.03.2019 in **C.P. NO. 4216(IB)/MB/2018** (“**main Petition**”) filed under Section 7 of the Code. By virtue of the CIRP Admission Order, Respondent No.5 and Ms. Leena Sharad Gupta have been rendered as the Suspended Directors of the Company.
5. After the Resolution Professional was appointed, he came to know the following facts:
 - a. MPID Notification dated 01.02.2012 had been issued under the Maharashtra Protection of Interest of Depositors Act, 1999, (“**MPID Act**”) and it was passed against the Respondent no.5 and not the Corporate Debtor.
 - b. A plain reading of the said Notification shows that it was directed against the Respondent No.5; however, the seal and lock were placed on immovable assets of the Company, not of that of the Respondent No.5.
 - c. The Notification dated 01.02.2012 attached the Company’s property at Item No. 4 (Shop No. 21). The final report of the Special Designated Court, Sessions, Mumbai, lists sealed properties, including Shop Nos. 22, 10-A, 21, and Plot No. 53, sealed by Police, Juhu, Mumbai.
 - d. The details of the Corporate Debtor’s immovable properties are set out in Schedule – I of the Petition below :
 - i. Shop No. 21, Ground Floor, Bonanza Arcade, Amboli, S. V. Road, Andheri admeasuring approximately 150 sq. ft. build-up area. (“**Shop No.21**”)
 - ii. Shop No. 22, Ground Floor Bonanza Arcade, Amboli, S. V. Road, Andheri admeasuring approximately 150 sq. ft. build-up area. (“**Shop No.22**”)

- iii. Shop No. 10-A, Ground Floor, Bonanza Arcade, Amboli, S. V. Road, Andheri admeasuring approximately 227 sq. ft. build-up area. (“**Shop No.10-A**”)
 - iv. Plot No. 53, Sector-1, near Jui Nagar Railway Station, Navi Mumbai- 400706, Maharashtra. (“**Plot No.53**”)
6. The Applicant submits that the above four properties (“**Scheduled Properties**”), are owned by the Corporate Debtor, which can be demonstrated from the following documents:
- a. The Corporate Debtor owns Shop No. 10-A, pursuant to an Agreement for Sale dated 16.08.1998 in favour of Rubina Arif Ali and a subsequent Agreement for Sale dated 15.06.2001 executed in favour of the Corporate Debtor (formerly known as Laxmi Auto Globe Pvt. Ltd.).
 - b. The Corporate Debtor owns Plot No. 53 under a Sale Deed and Lease Deed executed in favour of the Corporate Debtor.
 - c. The Corporate Debtor owns Shop No. 22 pursuant to a Sale Agreement dated 06.06.2001.
 - d. The Corporate Debtor owns Shop No. 21, pursuant to a Sale Agreement dated 10.12.2002.
7. The Applicant submits that the Respondent No.3 i.e. the Central Bank had issued loan to 2 Borrowers in the year 2008, i.e., Loyal Motors Pvt. Ltd. and the Corporate Debtor for an amount of Rs. 6.96 Crores, however said borrowers defaulted in payment of the same. Further, charge is inter alia created on the scheduled properties of Corporate Debtor, which were mortgaged in favour of the Respondent No.3 in the year 2008 and further Notice u/s. 13(2) of SARFAESI Act, 2002 for enforcing security interest was issued in 2009 i.e., both events occurred prior to MPID Notification dated 01.02.2012. Hence, the Respondent No.3 holds prior charge over the scheduled properties, which is in priority to all charges of depositors. Thus the scheduled properties are owned by the Corporate Debtor however the same have been mortgaged in favour of the Respondent No.3.

8. Hence, the Applicant filed MA No. 3189/MB/2019 before this Tribunal seeking inter alia for release and removal of seal & lock over the scheduled properties of the Corporate Debtor u/s. 14, 18 & 23 of IBC. Thereafter, the Corporate Debtor was ordered into liquidation by this Tribunal vide order dated 27.01.2020 in M.A. 3984/2019 under Section 33 of the Code, (“**Liquidation Order**”). On the same date, i.e., 27.01.2020, M.A. No. 3189/MB/2019 (“**the said Miscellaneous Application**”) filed by the RP seeking, inter alia, release and removal of the seal and lock on the Corporate Debtor’s properties was also allowed by this Tribunal.
9. In view of the proviso to Section 33(5) of the Code, which requires prior approval of the Hon’ble NCLT for instituting proceedings on behalf of the Corporate Debtor, the Liquidator has filed the present Interlocutory Application under Section 60(5) read with the proviso to Section 33(5) of the Code read with Liquidation Regulations on below grounds:
 - a. The Liquidator is duty-bound to protect the assets of the Corporate Debtor under Section 35 of the Insolvency and Bankruptcy Code, 2016 read with the Liquidation Regulations.
 - b. The liquidation estate includes the Scheduled Properties detailed in Schedule I.
 - c. The Applicant has learned that, pursuant to the MPID Notification dated 01.02.2012 (Exhibit “A”), CR No. 911/2011 in MPID Special Case No. 1/2011 is pending before the Ld. Sessions Court, Mumbai. Aggrieved by the attachment of the Scheduled Properties, the Applicant seeks to approach the said Court for their release. As prior approval of the Hon’ble NCLT is required under the proviso to Section 33(5), the present application is filed under Section 60(5) read with Section 33(5) of the Code.
 - d. The Scheduled Properties are assets of the Corporate Debtor, as evidenced in Exhibits “C” to “F” of the Petition, but have been wrongly attached under the MPID Act, 1999, despite the Notification being

directed only against Dhanlaxmi Co-op. Credit Society and its officials, with no reference to the Corporate Debtor.

- e. The Corporate Debtor is not named in the MPID Notification; hence, the attachment of its properties is erroneous.
- f. The Notification pertains to individuals in their capacity as directors of Dhanlaxmi Co-op. Credit Society and not of the Corporate Debtor; therefore, attachment of the Corporate Debtor's properties is unwarranted.
- g. It is a settled principle that a company is a separate legal entity from its directors; accordingly, the properties belong to the Company and not its directors.
- h. The Central Bank of India sanctioned a loan of Rs. 6.96 crores to the Corporate Debtor, secured by a mortgage over the Scheduled Properties on 08.03.2008. A notice under Section 13(2) of the SARFAESI Act was issued on 31.03.2009, both preceding the MPID Notification. Thus, the Bank holds a prior charge over the properties.
- i. The Central Bank of India, being the sole member of the Stakeholders' Consultation Committee with 100% voting share, is entitled to priority in distribution under Section 53 of the Code
- j. The MPID attachment has impeded the Liquidator from discharging duties, despite Section 238 of the Code giving it overriding effect over other laws, as upheld by the Hon'ble Supreme Court.
- k. The Scheduled Properties, though attached under the MPID Act, are mortgaged to the Central Bank of India. The Bank has already enforced its security interest under the SARFAESI Act, including taking possession on 13.06.2009.
- l. In these circumstances, and in discharge of statutory duties, the Applicant seeks to approach the Ld. Sessions Court, Mumbai, in CR No. 91/2011 in MPID Special Case No. 1/2011, for release of the MPID attachment on the Scheduled Properties (Schedule I).

10. During the interregnum, the Applicant became aware that, in relation to the MPID Notification dated 01.02.2012, the main CR No. 911/2011 in MPID Special Case No. 11/2011 is pending before the Ld. Sessions Court, Mumbai. Being aggrieved by the attachment of the Scheduled Properties under the said Notification, the Applicant seeks to approach the Ld. Sessions Court for release of the attachment wrongly imposed on the Corporate Debtor's scheduled properties.
11. The Applicant submits that in the judgement passed by Hon'ble High Court of Bombay in matter of ***State of Maharashtra v. Anil Kohil, 2020 SCC OnLine Bom 2674***, it has been held that the NCLT has no jurisdiction to examine actions taken under the MPID Act, and that challenges to attachment orders thereunder lie exclusively before the Designated Court constituted under the MPID Act, which alone is the appropriate remedy for such reliefs.

Submissions of the Respondents :

12. Vide order dated 16.04.2026 in the present IA, it is recorded that the service of Notice to the Respondent Nos.1, 2 and 4 as per the directions have taken place, however, none of these Respondents have appeared in the matter and filed reply. The Ld. Counsel for the Respondent No.3 submitted that he doesn't wish to file the reply in the present application as they are supporting the case. The only contesting party i.e. the Respondent no. 5 has filed a Reply and argued the matter.

The Reply of the Respondent No.5 is stated below :

13. The Respondent No.5 submits that the Applicant has intentionally suppressed the material fact before this Tribunal for obtaining an order which may not be granted under law.
14. The Respondent No.5 submits that this Tribunal has already decided the current issues by passing an order dated 27.01.2020 in the said Miscellaneous Application. By the aforesaid order, this Tribunal had lifted the attachment issued by the Respondent No.2 under the MPID Act dated

01.02.2012 and held that the attachment by the MPID is illegal for the reason that the said attached properties do not belong to the erstwhile directors but to the Corporate Debtor. Thus the attachment dated 01.02.2012 was lifted and the Resolution Professional was directed to serve copy of the Order to the Respondent no.2 and to proceed further with CIRP proceedings.

15. The said order of this Tribunal on 27.01.2020 was not known to the Respondent No.5. In the meantime, the aforesaid order dated 27.01.2020 was challenged before the Hon'ble Bombay High Court in the Writ Petition no. 17808 of 2024 ("**the said Writ Petition**"). Meanwhile somewhere in August 2025, pursuant to the Order dated 27.01.2020 passed by this Tribunal, an auction sale of the properties of the Corporate Debtor was scheduled to be auctioned on 11th or 12th of August 2025. In view of the scheduled properties being auctioned, the said Writ Petition was mentioned and heard. Accordingly, the Hon'ble High Court vide order dated 12.08.2025 put a stay on the auction sale organized in pursuance of NCLT order.
16. Subsequently the auction sale was stayed, however, the Applicant has filed an IA no.29579 of 2025 in the said Writ Petition for vacating the stay granted on 12.08.2025 on the basis of the fact that by an order dated 04.03.2025, the Ld. MPID court has already permitted the auction sale, of those scheduled properties of the Corporate Debtor as per the order dated 07.01.2020 passed by this Tribunal. In this aforesaid IA, the Hon'ble High Court passed an order dated 04.11.2025 for vacation of the stay order on auction sale dated 12.08.2025.
17. The Respondent No.5 submits that this order dated 04.11.2025 was predominantly passed on the basis of the order dated 04.03.2025 of the MPID court permitting the sale of the scheduled properties on the basis of the fact that SARFAESI Act shall prevail over the MPID Act.
18. The Respondent No.5 further submits that the above order of the MPID Court was already challenged before the Hon'ble High Court under the Criminal Appeal no.1142 of 2025. In the said criminal appeal, the Hon'ble

High Court vide order dated 24.11.2025 set aside the order passed by the MPID Court on 04.03.2025.

19. During the hearing of the said Writ Petition, the Hon'ble High Court was intimated about the said order dated 24.11.2025 in the Criminal Appeal No.1142 of 2025 wherein the order dated 04.03.2025 of the MPID Court was set aside. Accordingly, the Hon'ble High Court vide order dated 22.12.2025 in the said Writ Petition took the order dated 24.11.2025 into account and permitted the parties to file an application get the order dated 04.11.2025 passed in IA no.29579 of 2025, modified.
20. The Respondent No.5 contends that the present application is not maintainable in view of the background of the case. This Tribunal, by its order dated 27.01.2020, has already set aside the notification dated 01.02.2012 issued under the MPID Act, and therefore the said notification no longer subsists in law. In the absence of such notification, the MPID Court lacks jurisdiction. Hence, seeking permission to initiate proceedings before the MPID Court reflects a clear misunderstanding of facts and law, and is likely to result in conflicting orders, thereby causing miscarriage of justice.
21. It is submitted that the auction order dated 04.03.2025 obtained by Central Bank of India has already been set aside and quashed. Grant of the relief sought in the present application would violate the principle of res judicata. The application has been filed by suppressing material facts and is therefore liable to be rejected.
22. The Respondent No.5 argues that Section 33(5) of the IBC is procedural in nature and merely requires prior approval for instituting proceedings; it does not enlarge the jurisdiction of this Tribunal. Further, Section 60(5)(c) confers jurisdiction only in respect of matters arising out of or in relation to insolvency or liquidation proceedings. It is well settled that NCLT/NCLAT cannot adjudicate upon issues arising under other statutes or act as a substitute for competent judicial forums.

23. The Respondent No.5 asserts that this Tribunal cannot examine the legality of attachment proceedings under the MPID Act. The MPID Act is a special legislation providing for attachment and adjudication before a designated Special Court, and any grievance in respect thereof must be agitated exclusively before the MPID Court.
24. Moreover, the Respondent No.5 states that reliance on Section 238 of the IBC is misplaced, as the non-obstante clause applies only in cases of direct inconsistency. There is no inconsistency between the liquidation process under the IBC and attachment proceedings under the MPID Act. Further, the applicant is bound by the orders and undertakings given before the Hon'ble High Court, and the present application is therefore not maintainable.
25. The Respondent No.5 submits that Section 53 of the IBC governs only the distribution of liquidation proceeds and does not nullify prior statutory attachments under criminal law. The applicant's claim of exclusive ownership is disputed and involves questions of beneficial ownership and nexus, which require detailed evidence and cannot be adjudicated in summary proceedings under Section 60(5).
26. In view of the aforesaid, Respondent No. 5 prays that this Tribunal be pleased to dismiss the present application with exemplary costs.

Analysis and Findings :

27. We have heard the Ld. Counsel for the parties and perused the documents available on record.
28. It is the case of the Applicant that, this Tribunal vide order dated 27.01.2020 initiated the Liquidation process of the Corporate Debtor. However, since there is an attachment of the Scheduled Properties vide MPID Notification dated 01.02.2012 by the Respondent No.2, the Liquidator is unable to proceed further with the Liquidation process. Hence the Applicant Liquidator has filed the present application seeking permission to institute proceedings before the Ld. Sessions Court seeking release of the attachment placed on the Scheduled properties of the

Corporate Debtor under the MPID Act, which forms part of the Liquidation Estate.

29. Per Contra, Respondent no.5 has submitted that the issue related to the attachment of the scheduled properties has already been decided by this Tribunal vide order dated 27.01.2020, wherein it set aside the notification dated 01.02.2012 issued under the MPID Act, and therefore the said notification no longer subsists in law. Further, the Respondent asserts that Section 53 of the IBC governs only the distribution of liquidation proceeds and does not nullify prior statutory attachments under criminal law. Also, the applicant's claim of exclusive ownership over the scheduled properties is disputed and thus it cannot be decided in summary proceedings.
30. The present application has been filed under Section 60(5) read with Section 33(5) of the Code. To appreciate the matter better, it is necessary to refer Section 33(5) of the Code:

“ Section 33. Initiation of liquidation.

(5) Subject to section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor:

*Provided that **a suit or other legal proceeding may be instituted by the liquidator, on behalf of the corporate debtor, with the prior approval of the Adjudicating Authority.**”*

[Emphasis supplied]

Section 33(5) of the Insolvency and Bankruptcy Code, 2016 provides that once a liquidation order is passed, no fresh suit or legal proceeding can be instituted by or against the corporate debtor, so as to preserve the liquidation estate and avoid fragmented litigation. The proviso carves out a limited exception by permitting the liquidator, acting on behalf of the corporate debtor, to institute proceedings with prior approval of the Adjudicating Authority. The proviso acts as a gatekeeping mechanism

requiring leave before the liquidator commences litigation beneficial to the liquidation estate of the Corporate Debtor.

31. It is noted that the Hon'ble NCLAT has in the matter of ***Slimline Realty Private Limited Vs. Mr. Jigar Bhatt [Company Appeal (AT) (Ins) No. 690/2024]***, has held that:

“Question No.4:

45. The scheme delineated under Section 33(5) does not indicate that the Liquidator has to give any opportunity or notice to the party against whom approval is sought to initiate proceedings. The provision of Section 33(5) is that the Adjudicating Authority should keep control over estate in the liquidation proceeding so that no proceeding can be initiated by the Liquidator so as to expose the Corporate Debtor to unnecessary expenses. Hence, the approval of the Adjudicating Authority is required to institute proceeding. For approval by the Adjudicating Authority, the legislative scheme does not indicate any notice or opportunity to the party against whom proceedings are to be instituted. Question No.4 is answered in following words:

Answer No.4: Before granting approval under Section 33(5) proviso to institute proceedings by the Liquidator on behalf of the Corporate Debtor, the party against whom proceedings are to be instituted is not to be given a notice of hearing necessarily.”

From the above judgement, it is inferred that before granting approval under Section 33(5) proviso to institute proceedings by the Liquidator on behalf of the Corporate Debtor, the party against whom proceedings are to be instituted is not to be given a notice of hearing necessarily. However, in the present case, this Tribunal, vide order dated 08.01.2026, observed that the Respondents had not been served with an advance copy of the IA despite being impleaded in the application, accordingly, notices were directed to be served on all the Respondents.

32. The Applicant has contended that the properties namely, Shop- 10 A, Shop no. 21, Shop no. 22 and Plot no. 53, attached through the MPID Act are owned by the Corporate Debtor. However, the Respondent no.5 has contended that applicant's claim of exclusive ownership is disputed and involves questions of beneficial ownership. In this regard, it is observed that the Applicant has attached the requisite documents in Exhibit C to Exhibit- F of the Petition, to show the ownership of the scheduled properties and mortgaging them in favour of the Respondent no.3 Bank on 08.03.2008. The charge of the Respondent no.3 Bank over the scheduled properties is not disputed.
33. It is noted that the Corporate Debtor went into Liquidation on 27.01.2020 vide this Tribunal's Order in M.A.3984 of 2019, wherein it was also submitted by the RP that no valuation of the properties of the Corporate Debtor could be carried out in view of the attachments under the MPID Act. Further, this Tribunal had in MA No. 3189/MB/2019 passed an order dated 27.01.2020, directing the release and removal of seal & lock over the scheduled properties of the Corporate Debtor.
34. A Writ Petition bearing No. WP No.17808/2024 was filed by Mr. Madanlal Harilal Gupta against the Corporate Debtor, Respondent Nos.1,3 and 5 and others. In the said Writ Petition, an Interim Application (ST) No.29579 of 2025 was filed by Mr. Prashant Jain, the former Liquidator of the Corporate Debtor, wherein, by an order dated 04.11.2025 of the Hon'ble Bombay High Court have noted and directed as under:

"1. By this Interim Application, the Applicant Prashant Jain Liquidator of Loyal Auto Globe Private Limited has sought for lifting of the stay placed upon e-auction of the Scheduled Properties of the Corporate Debtor and/or vacation of any other or further interim reliefs granted to the Original Petitioner; who is Respondent No.1 herein.

2. The Division Bench of this Court in paragraph-5 of Order, dated 12th August 2025 passed in the above Writ Petition No.17808 of 2024 has recorded that Mr. Samant, Addl.G.P. seeks time to take instructions whether the property in question is covered under the notification issued under the MPID Act. It was accordingly recorded

*in paragraph-6 that considering that the property in question is to be auctioned, **it is appropriate to stay the Order dated 27th January 2020 which is impugned in the above Petition** till the next date. The Matter had been stood over to 2nd September, 2025 and has thereafter come up today.*

....

4. The learned Counsel appearing for the Applicant has informed this Court that four properties which are the subject matter of the above Petition are listed at Sr. Nos. 3, 4, 5 and 10 of the Exhibit-A to Miscellaneous Application No.144 of 2017 in MPID Case No.01 of 2011, which Miscellaneous Application has been allowed by the MPID Court by raising the attachment of inter alias these properties

*5. **Accordingly, the said Order passed by the Division Bench of this Court which had stayed the auction of the said properties, is required to be vacated in view of the MPID Court Order.***

....

*7. **In view thereof, the stay granted by the Division Bench of this Court, vide Order dated 12th August 2025 on the auction of the subject properties is vacated.***

Taking a note of the above order, it is clear that the order dated 27.01.2020 of the Tribunal passed in MA No. 3189/MB/2019, is challenged under Writ Petition no.17808 of 2024 and is stayed by the Hon'ble High Court of Bombay.

35. The Hon'ble Bombay High Court has passed order dated 24.11.2025, in *Kashinath Nagu More & Ors versus Central Bank of India & Ors*, Criminal Appeal No.1142 of 2025, wherein they have directed as under:

“In the light of this, we find that the overriding effect given to the SARFAESI Act over the provisions of the MPID Act is no longer available in the wake of the decision of the Apex Court in National Spot Exchange Limited (supra). For this reason, we quash and set aside the impugned order dated 04/03/2025.

4. We are also informed that till date, the said property is not yet auctioned and the learned counsel for the Bank

would submit that the property is now in the hands of the Liquidator.

Learned A.P.P. informs that the auction of the property was scheduled today, and it is not yet concluded. But the learned counsel for the Applicant would submit that the competent authority is not kept in the loophole, while conducting the auction by the liquidator.

*We do not deem it necessary to consider the said contention, as if the impugned order is looked into, it is merely based on the supremacy of the SARFAESI Act and the secured creditors therein as against the provisions of the MPID Act. **Therefore, we leave it open to raise all the contentions before the competent court, which shall include the contention that. the company is under liquidation and is subjected to Insolvency and Bankruptcy Code (IBC), 2016.***

Thus, the division bench of the Hon'ble Bombay High Court has in the above matter, left it open to approach the Competent Court to raise all the contentions *inter alia* that the Corporate Debtor is under Liquidation, which is subjected to IBC.

36. Taking a note of the above order dated 24.11.2025 passed in Criminal Appeal No.1142 of 2025, the Hon'ble Bombay High Court has in its order dated 22.12.2025 in Writ Petition No.17814 of 2024 with Interim Application No.13284 of 2025 and Writ Petition No.17808 of 2024 with Interim Application No.13286 of 2025 (both Interim applications filed by the former Liquidator of the Corporate Debtor), have further noted and directed that:

- 1. Mr. Singh, the learned Counsel for the Petitioner has informed this Court of the order dated 24th November 2025 passed by the Division Bench of this Court by which the Order dated 4th March 2025 of the MPID Court has been quashed and set aside. This is in Criminal Appeal No.1142 of 2025. It has been held by the Division Bench in the said order that the overriding effect given to SARFAESI Act over the provisions of MPID Act is no longer available in the wake of the decision of the Supreme Court in National Spot Exchange Limited Vs. Union of India. It is further observed by the Division Bench that till*

date, the said property is not yet auctioned and the learned Counsel for the Bank would submit that the property is in the hands of the liquidator. The Division Bench has not deemed it necessary to consider this contention and has left it open to raise all contentions before the Competent Court which would include the contention of the company that it is under liquidation and subject to the Insolvency and Bankruptcy Code (IBC), 2016.

....

3. Mr. Zulfiq Multani, the learned Counsel appearing for the Liquidator representing Respondent No. 1 states on instructions that there was an auction sale of seven properties which had been conducted on 24th November 2025. Out of the seven properties, the auction sale of two properties were successful. He further states that out of the two, one of the successful auction purchasers, in view of Order dated 24th November 2025 passed by the Division Bench of this Court had sought refund of the EMD, which has thereafter been refunded by the Liquidator to the auction purchaser. **In respect of second property, a statement is made by the learned Counsel for the Liquidator that there will be no further steps taken including issuance of the sale certificate and the EMD received from the successful auction purchaser; will be refunded to the auction purchaser. He states that no further steps will be taken insofar as the auction of the remaining properties are concerned. The statement is accepted.**

4. Mr. Singh states that an appropriate application will be taken out seeking modification of the said Order dated 4th November, 2025 in Writ Petition No.17814 of 2025. He has sought time of one week for taking out the Application in Writ Petition No.17808 of 2024 by extending time in this Writ Petition.

5. Accordingly, the Petitioners are permitted to take out Applications for modification of the said Order dated 4th November, 2025 in the above Writ Petitions, by 5th January, 2026.”

37. It is observed that the Applicant Liquidator has undertaken not to proceed further with the auction process in respect of the scheduled properties, as has been noted in the order dated 22.12.2025 passed by the Hon'ble Bombay High Court. It is noted that the order dated 27.01.2020 passed by this Tribunal has been impugned in Writ Petition No. 17808 of 2024 and could not be given effect to. Further, it is also noted, in the case of *Kashinath Nagu More & Ors. v. Central Bank of India & Ors.*, Criminal Appeal No. 1142 of 2025 dated 24.11.2025, Hon'ble Bombay High Court has left it open for the parties to approach the Competent Court to raise all the contentions inter alia that the Corporate Debtor is under Liquidation, which is subjected to IBC (Para No.35). Accordingly, this Tribunal is of the opinion that the issue relating to the release of the attachment placed under the MPID Notification dated 01.02.2012 on the scheduled properties, is required to be agitated before the competent court, particularly since the scheduled properties form part of the liquidation estate of the Corporate Debtor and the liquidation process cannot effectively proceed when the properties are under attachment.
38. In view of the above facts and circumstances and since the Liquidator intends to institute necessary Application(s) in Main CR No. 91/2011 in MPID Special Case No. 1/2011 before the Ld. Sessions Court, Mumbai, prior approval for the same in terms of the proviso to Section 33(5) of the IBC is granted, in the interest of completion of the liquidation process.
39. Accordingly, **I.A. No.35/MB/2026**, is **allowed** and **disposed of**.

Sd/-

Charanjeet Singh Gulati
Member (Technical)

Rashmi, LRA

Sd/-

Nilesh Sharma
Member (Judicial)