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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010445142026
+ W.P.(C) 13751/2026, CM APPL. 64079/2026, CM APPL. 64080 & CM APPL. 64081/2026

MOSER BAER INDIA LIMITED THROUGH ITS
LIQUIDATOR MR ANIL KOHLIPetitioner

Through: Mr. Abhishek Anand, Mr.
Karan Kohli, Ms. Palak Kalra & Mr. Aney
Verma, Advs.
versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Atul Tripathi, SSC.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE BHARAT PARASHAR

ORDER
09.10.2026

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1. The present Writ Petition raises an important question concerning the interplay between the statutory requirement of pre-deposit under Section 107(6) of the Central Goods and Services Tax Act, 2017 [the “CGST Act”] and the statutory framework governing liquidation under the Insolvency and Bankruptcy Code, 2016 [the “IBC”]. The issue that arises for consideration is whether a corporate debtor undergoing liquidation can seek exemption from the mandatory pre-deposit prescribed under Section 107(6) of the CGST Act, on the ground that the utilization of funds forming part of the liquidation estate for such purpose would be inconsistent with the statutory scheme of distribution contemplated under Section 53 of the IBC.
2. The case set up by the Petitioner is that the Petitioner-Company is undergoing liquidation pursuant to an order dated 20.09.2018



passed by the National Company Law Tribunal, New Delhi, and is presently represented by its Liquidator. It is contended that, in the course of the liquidation proceedings, the assets of the Petitioner-Company have been realised and the proceeds thereof are required to be dealt with in accordance with the statutory waterfall mechanism prescribed under Section 53 of the IBC.

3. Learned counsel for the Petitioner submits that the Petitioner has instituted a statutory appeal under Section 107 of the CGST Act against the order dated 23.09.2025, whereby a substantial demand towards Goods and Services Tax, along with penalty, has been confirmed against the Petitioner-Company. It is submitted that the Respondent authorities have declined to entertain the appeal unless the Petitioner complies with the requirement of pre-deposit under Section 107(6) of the CGST Act. In this regard, reliance is placed upon the notices dated 16.03.2026 and 09.04.2026, whereby the Petitioner has been called upon to make the requisite pre-deposit, failing which the appeal would be treated as not filed.

4. The principal contention advanced on behalf of the Petitioner is that, once a company is under liquidation, its assets and the proceeds realised therefrom are required to be administered and distributed in accordance with the provisions of the IBC. It is urged that compelling the Liquidator to make a pre-deposit out of the liquidation estate, as a condition precedent to the consideration of the statutory appeal, would result in the diversion of funds towards the disputed claim of a statutory creditor, independently of the distribution mechanism prescribed under Section 53 of the IBC. According to the Petitioner, such a requirement would have the effect of according preferential treatment to the concerned statutory authority and would, therefore, be



contrary to the scheme of the IBC.

5. The aforesaid submissions raise a substantial question concerning the interaction between the appellate mechanism under the CGST Act and the statutory obligations of a Liquidator under the IBC. The question merits consideration, particularly in view of the contention that compliance with the pre-deposit requirement would entail the utilisation of funds forming part of the liquidation estate, even before the disputed tax liability has attained finality in the statutory appellate proceedings.

6. Having regard to the nature and importance of the legal issue involved, this Court considers it appropriate to seek assistance in the matter from the learned Additional Solicitor General of India, Mr. Raghavendra Shankar, who is present in Court. Accordingly, Mr. Raghavendra Shankar, learned Additional Solicitor General of India, is requested to assist this Court in examining the interplay between Section 107(6) of the CGST Act and the relevant provisions of the IBC, including the effect, if any, of the liquidation framework under Section 53 of the IBC on the requirement of statutory pre-deposit for maintaining an appeal under the CGST Act.

7. List on 28.10.2026 in the *Supplementary List*.

ANIL KSHETARPAL, J

BHARAT PARASHAR, J

OCTOBER 9, 2026/RW/pal