**IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH**

*[Through Physical hearing/ VC Mode (Hybrid)]*

**ITEM No.13**
**I.A.Nos.299, 301/2020, 266/2021, 34/2023, 723/2024, 301/2025 & 819/2026 in C.P. (IB) No.52/BB/2017**

**IN THE MATTER OF:**

M/s Randstad India Pvt. Ltd. … Petitioner

Vs.

M/s Camson Bio Technologies Ltd … Respondent

**Petition under Section 9 of IBC, 2016**

**Order delivered on: 23.10.2026**

**CORAM:**

**SHRI SUNIL KUMAR AGGARWAL**
**HON'BLE MEMBER (JUDICIAL)**

**SHRI RADHAKRISHNA SREEPADA**
**HON'BLE MEMBER (TECHNICAL)**

**COUNSELS PRESENT:**

| | | |
|---|---|---|
| For Appl. in I.A.266/21 | : | Shri Arjun Ajay |
| For Appl. in I.A.723/24 | : | Shri Hitesh P Vachhani |
| For the Liquidator | : | Shri Vikram C. |
| For the R-1 & 2 in I.As.299, 301/2020, I.A.34/2023 | : | Shri A. Murali with Shri Ashwin K. |
| For Applicants in I.As. 819 & 855/2026 | : | Mr. Mahesh Thulasidas |

**ORDER**

1. Heard Ld. Counsels for the parties.
2. **I.A.No.723/2024:** Vide separate Order, **Application has been dismissed.**

3. **I.A.Nos.819 & 855/2026:** The Applicant is required to explain the status of secured assets of Corporate Debtor/Principal Borrower and its realization. Ld. Counsel informs that it has not been realized so far as it is entangled in litigation about which he had informed the liquidator. Let him file communication with the liquidator in this behalf and details of secured assets its valuation (if taken) and litigation.
4. List **for Orders on 06.11.2026.**
5. **I.A.No.266/2021:** List the case **for Orders on 06.11.2026.**
6. List the case for remaining IAs on **06.11.2026.**

**-Sd/-**

**RADHAKRISHNA SREEPADA**
**MEMBER (TECHNICAL)**

**-Sd/-**

**SUNIL KUMAR AGGARWAL**
**MEMBER (JUDICIAL)**

Shruthi

**IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH**
*(Exercising powers of Adjudicating Authority under The Insolvency and Bankruptcy Code, 2016)*

**IA No. 723/2024**

in

**C.P. (IB) No. 52/BB/2017**
*(Application under Section 42 of the Insolvency and Bankruptcy Code 2016)*

**IN THE MATTER OF:**

**STATE TAX OFFICER (1),** Unit-4,
Office of Assistant Commissioner State Tax,
5th Floor, Multi Storey Building,
Laldarwaja, Ahmedabad– 380002 i …Applicant

***Versus***

Liquidator (Mr. Suresh Kannan) of
***Camson Bio Technologies Limited***,
AAA Insolvency Professionals LLP,
E-10A, Kailash Colony, Greater Kailash-1,
New Delhi–110048 … Respondent

**IN THE MAIN MATTER OF:**

**M/S. RANDSTAND INDIA PRIVATE LIMITED**
'Randstand house', Old No.5 & SA,
New No .9, Pycrofts Garden Road,
Chennai-600006 …Petitioner/Operational Creditor

***Versus***

**M/S.CAMSON BIO TECHNOLOGIES LIMITED**
C-7, Floor, Corporate Block'
Golden enclave, Old Airport Road,
Bengaluru– 560017 …Respondent/Corporate Debtor

**Order Delivered on: 23/10/2026**

**Coram:** Shri Sunil Kumar Aggarwal, Hon'ble Member (Judicial)
Shri Radhakrishna Sreepada, Hon'ble Member (Technical)

**Parties/Counsels Present:**

For the Applicant : Shri Hitesh P Vachhani

For Respondent : Adv. Vikram C

## O R D E R

**1.** This Application is filed on 10.05.2024 by the Assistant Commissioner of State Taxes, Unit-4, Ahmedabad (hereinafter referred to as the "Applicant") against the Liquidator of M/s Liquidator of *Camson Bio Technologies Limited* (hereinafter referred to as the "Corporate Debtor"/"Respondent") under Section 42 of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 and Section 5 of the Limitation Act, 1963 for the following reliefs:

*A. allow the captioned appeal.*

*B. set aside the rejection of the Respondent vide communication dated 28.02.2024, as the impugned rejection is bad in law and requires to be set aside. Annexure. Al*

*C. condone the delay of 418 days (Period dated 02/01/2021 to 25/02/2022) in submitting claims under Form C dated 25.02.2022.*

*D. direct the Respondent to consider and admit the unpaid dues of the Deponent authority as a secured dues and the Deponent authority as a "Secured Creditor" for the assessment years 2013-14, 2015-16, 2016-17 and 2017-18.*

*E. Pending admission, hearing and final disposal of the present appeal, direct Respondent to be restrained from making final distribution of assets of corporate debtor.*

*F. grant any such other and further reliefs as may be deemed just, fit and proper in the interest of justice.*

2. The facts of the case are mentioned below:

i. The Corporate Insolvency Resolution Process ("CIRP") against M/s Camson Bio Technologies Limited had commenced pursuant to admission order dated 14.06.2018. As no resolution plan could be approved, its Liquidation was directed vide order dated 03.12.2020 and the respondent was appointed its liquidator. Consequent thereto, a public announcement in Form-B dated 15.12.2020 was issued inviting claims from all stakeholders and the last date to submit the claims by the Creditors was 02.01.2021

ii. The Applicant is the jurisdictional State Tax Officer under the Gujarat Value Added Tax Act, 2003 ("GVAT Act"). According to the Applicant, various assessment orders passed under the GVAT Act and the Central Sales Tax Act resulted in tax dues aggregating to **Rs.1,62,97,700/-** for the Assessment Years 2013-14, 2015-16, 2016-17 and 2017-18. By virtue of Section 48 of the GVAT Act, such dues constitute a first charge on the property of the Corporate Debtor and consequently the Applicant is entitled to be treated as a Secured Creditor within the meaning of the Code.

iii. It is the case of Applicant that it did not have knowledge of the initiation of liquidation process against the Corporate Debtor. It so became so aware only in January-February 2022 at the time of initiating recovery proceedings under the GVAT Act by attaching the bank account of Corporate Debtor when the HDFC Bank had informed already placement of CD account under "No Debit/Hold" status pursuant to liquidation proceedings. Immediately thereafter, correspondence ensued between the Applicant, the Bank and the Liquidator and the applicant upon acquiring knowledge of the liquidation proceedings, submitted its claim in Form-C as per IBBI Liquidation Regulations, 2016, on 25.02.2022 with relevant assessment orders, demand notices and supporting documents to the Liquidator.

iv. The Respondent, by communication dated 23.03.2022, informed the Applicant that its claim would be processed only after the amount recovered by the Applicant through attachment proceedings will be refunded to the liquidation estate. Subsequently, by an order dated 07.12.2023 passed in IA

No.580 of 2022, this Adjudicating Authority had directed refund of the amount recovered by the Applicant. Thereafter, the Applicant repeatedly requested the Respondent to classify it as a Secured Creditor relying upon the judgment of the ***Hon'ble Supreme Court in State Tax Officer v. Rainbow Papers Ltd. Civil Appeal No.1661 of 2020***

v. The Respondent, however, by communication dated 02.01.2024, declined the request observing that the subsequent judgment of the Hon'ble Supreme Court ***in Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd***. governed the issue. Ultimately, by communication dated 28.02.2024, the Respondent rejected the Applicant's claim, leading to the filing of the present application.

3. The Respondent has filed its objections on 24.06.2025 contending that:

**i.** The application is not maintainable either on facts or in law and deserves dismissal in limine. The Applicant has failed to establish any sufficient cause for condonation of the admitted delay of 418 days in filing Form-C and the present proceedings are an attempt to reopen a liquidation process which has substantially progressed and belated claims cannot be admitted at this stage, as it would disturb the settled waterfall mechanism and cause serious prejudice to other stakeholders.

ii. The Applicant cannot claim ignorance of the liquidation process since a public announcement in Form-B had duly been issued in accordance with Regulation 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 which constitutes sufficient notice to all stakeholders including Government Departments and the Applicant cannot seek condonation merely on the ground of absence of actual knowledge.

iii. On merits, the Applicant's case is founded upon Section 48 of the GVAT Act, which creates a statutory first charge in favour of the State Government. But such statutory charge does not satisfy the definition of security interest contained in Sections 3(30) and 3(31) of the Code, as no security interest has been created through any consensual transaction executed by the Corporate

Debtor. The Code recognises only those security interests which arise out of a transaction securing payment or performance of an obligation, whereas a statutory charge imposed by operation of law cannot be equated with such security interest.

iv. The Government dues are specifically dealt with under Section 53(1) (e) of the Code and cannot be elevated to the category of Secured Creditors under Section 53(1) (b) merely because a State enactment creates a statutory first charge. The acceptance of the Applicant's contention would defeat the carefully structured waterfall mechanism prescribed by Parliament and would render Section 53 nugatory when Section 238 of the Code gives overriding effect to the provisions of the Code over any inconsistent provision contained in the GVAT Act.

v. Relying on the judgment in ***Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd***. it is stated that the decision in *Rainbow Papers* cannot be read as conferring Secured Creditor status upon every statutory authority claiming first charge under a taxing statute. The observations in ***Paschimanchal Vidyut***, ***Civil Appeal No.7976 of 2019*** reaffirm the supremacy of the waterfall mechanism under Section 53 and clarify the limited applicability of *Rainbow Papers*. Accordingly, the rejection of the Applicant's claim is in accordance with law and does not warrant interference by this Tribunal.

vi. Therefore, the Respondent has urged for dismissal of this applications and pass any other orders as this Tribunal may deem fit in the interest of justice.

4. The Applicant has filed Rejoinder on 31.07.2025 and stated as under:

vii. The Respondent has proceeded on an erroneous understanding of the subsequent decision in ***Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd.,*** which neither overrules nor dilutes the ratio laid down in *Rainbow Papers*. Both the judgments operate in distinct factual and statutory settings and the Respondent has incorrectly relied upon ***Paschimanchal Vidyut*** to deny the Applicant the status of a Secured Creditor.

viii. The delay in filing Form-C was neither deliberate nor attributable to negligence. The Department had no actual knowledge of the liquidation proceedings until January–February 2022, when recovery proceedings initiated under the GVAT Act resulted in an attachment of the Corporate Debtor's bank account and the Bank informed the Department regarding the liquidation proceedings and the "No Debit/Hold" status of CD's account. Immediately upon acquiring such knowledge, the Applicant initiated correspondence with Bank and Respondent and thereafter submitted its claim in Form-C dated 25.02.2022. It is therefore contended that the delay deserves to be condoned in the interest of justice.

ix. The Applicant also disputes the Respondent's contention that publication of Form-B amounts to sufficient notice in all cases. Although a public announcement was issued, the Applicant was not individually aware of the liquidation proceedings and had no occasion to participate therein until the events of January 2022. The Respondent has failed to establish that the Department had actual knowledge of the liquidation process prior to the said date and, therefore, the delay cannot be characterized as willful or inordinate.

x. With regard to the nature of its claim, the Applicant submits that Section 48 of the Gujarat Value Added Tax Act expressly creates a first charge on the property of the dealer in respect of unpaid tax dues. Such statutory first charge constitutes a security interest recognised under the Insolvency and Bankruptcy Code, thereby entitling the Applicant to be treated as a secured creditor within the meaning of Sections 3(30), 3(31) and Section 53(1)(b)(ii) of the Code. The Hon'ble Supreme Court in ***Rainbow Papers*** has authoritatively interpreted the interplay between Section 48 of the GVAT Act and the provisions of the Code and has unequivocally held that the State Tax Department is entitled to the status of a Secured Creditor.

xi. Further, the Respondent has incorrectly interpreted the expression "security interest" under Section 3(31) of the Code by confining it only to consensual transactions. The statutory definition is sufficiently broad to include a charge

created by operation of law and there is nothing in the Code to exclude a statutory first charge created under a taxing statute. Consequently, the Respondent's distinction between a contractual security interest and a statutory charge is stated to be contrary to the ratio of *Rainbow Papers*. Reliance in this behalf is placed on ***State of Gujarat v. Sanjay Kumar Agarwal*** and ***State of Gujarat v. Divyesh N. Desai, R/Special Civil Application No. 23256 of 2019*** wherein Hon'ble Gujarat High Court has recognized the State Tax Department as a secured creditor by virtue of Section 48 of the GVAT Act. Thus, ***Paschimanchal Vidyut*** does not overrule ***Rainbow Papers*** and statutory first charges created under the GVAT Act continue to enjoy protection under Section 53(1) (b) (ii) of the Code.

xii. The Applicant has further relied upon the decision of the Hon'ble Supreme Court in **San*jay Kumar Agarwal v. State Tax Officer (1) and Anr. (2024) 2 SCC 362*,** the order of the Hon'ble NCLAT in ***Amar Nath, Liquidator for Karan Processors Pvt. Ltd. vs. Excise & Taxation Commissioner (Comp. App. (AT) (Ins) No. 221 of 2023 & I.A. No. 795, 796 of 2023),*** has ruled the applicability of ***State Tax Officer (1) vs. Rainbow Papers Ltd. (2023) 9 SCC 545*** even for liquidation proceedings and observed that timelines provided under Liquidation proceedings are mere directory in nature and the suo motu decision of the Hon'ble Supreme Court in ***Cognizance for Extension of Limitation, In Re (2022) 3 SCC 117.*** The Applicant submits that these authorities, read cumulatively, establish that the Respondent has erred in rejecting the Applicant's claim solely on the basis of *Paschimanchal Vidyut*.

5. We have heard Learned Counsels for the Parties and carefully perused the material on record.

6. At the outset, it is necessary to notice that the present application involves two interconnected questions. The first relates to the delay in submission of the Applicant's claim before the Liquidator and the consequential delay in approaching this Adjudicating Authority under Section 42 of the Code. The

second relates to the substantive character of the Applicant's claim, namely, whether the statutory first charge created under Section 48 of the GVAT Act entitles the Applicant to be treated as a Secured Creditor under the Code.

7. The liquidation order in respect of the Corporate Debtor was passed on 03.12.2020 and the Liquidator issued the public announcement in Form-B on 15.12.2020, prescribing 02.01.2021 as the last date for submission of claims. The Applicant, however, submitted its claim in Form-C only on 25.02.2022, resulting in a delay of 418 days. The Respondent has contended that the delay is gross and unexplained and that publication of Form-B constituted sufficient notice to the Applicant.

8. So far as the delay in preferring this appeal is concerned, an **I.A. No. 106/2025** was filed by the applicant seeking to condone of delay of 50 days from 13.03.2024 to 01.05.2024 and the following order was passed on 24.02.2025.

> ***IA. No. 106/2025***
> *1. This application is filed by the Applicant under Section 60 (5) of the I & B Code, 2016 interalia seeking to condone the delay of 50 days in preferring an appeal under Section 42 of the I & B Code, against the rejection of claims vide communication dated 28.02.2024 by the Respondents from 13.03.2024 to 01.05.2024.*
> *2. Heard the Ld. Counsel for the Applicant.*
> *3. Considering the submission of the Applicant, the present application is allowed by condoning the delay of 50 days from 13.03.2024 to 01.05.2024 in preferring an appeal under Section 42 of the I & B Code 2016.* ***Accordingly. I.A No.106/2025 is disposed of.***

9. Having condoned the delay vide order dated 24.02.2025 in IA No. 106/2025, the next question is whether the Applicant is entitled to be treated as a secured creditor in respect of the tax dues claimed by it.

10. To analyse the issue of treating the statutory charge holder falling within the purview of 'Security Interest' to be classified as Secured Creditor, the relevant portion of the Judgement of the Hon'ble Supreme Court in ***State Tax Officer v. Rainbow Papers Ltd., Civil Appeal No.1661 of 2020*** is quoted:

> *"30. The learned Solicitor General rightly argued that in view of the statutory charge in terms of Section 48 of the GVAT Act, the claim of the*

*Tax Department of the State, squarely falls within the definition of "Security Interest" under Section 3(31) of the IBC and the State becomes a secured creditor under Section 3(30) of the Code."*

*"56. Section 48 of the GVAT Act is not contrary to or inconsistent with Section 53 or any other provisions of the IBC. Under Section 53(1) (b) (ii), the debts owed to a secured creditor, which would include the State under the GVAT Act, are to rank equally with other specified debts including debts on account of workman's dues for a period of 24 months preceding the liquidation commencement date."*

*"57. As observed above, the State is a secured creditor under the GVAT Act. Section 3(30) of the IBC defines secured creditor to mean a creditor in favour of whom security interest is credited. Such security interest could be created by operation of law. The definition of secured creditor in the IBC does not exclude any Government or Governmental Authority"*

11. Subsequently in ***Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd***. it was held that a statutory charge cannot automatically be treated as a "security interest" under Section 3(31) of the Code and that Government dues must remain subject to the waterfall mechanism under Section 53.

12. Later in ***Sanjay Kumar Agarwal v. State Tax Officer (1) and Anr. (2024) 2 SCC 362***, the review petitions seeking reconsideration of *Rainbow Papers* were dismissed.

13. The Applicant thus submits that the Hon'ble Apex Court sparing the *Rainbow Papers* from exercising review jurisdiction, tantamount to the said judgment still holding the field on the issue.

14. In the background of this conundrum, we look into the legislative intent in the context that the recent amendment to the Insolvency & Bankruptcy Code would reveal. By virtue of the Insolvency and Bankruptcy Code (Amendment) Act, 2026 Section 3(31) of the Code has undergone a material statutory change. The amended Section 3(31) of the code reads as under:

*(31) "**security interest**" means right, title or interest or a claim to property, created in favour of, or provided for a secured creditor by a transaction which secures payment or performance of an obligation and includes mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement securing payment*

*or performance of any obligation of any person: Provided that security interest shall not include a performance guarantee;*
***Explanation**. For the removal of doubts, it is hereby clarified that the security interest shall exist only if it creates a right, title or interest or a claim to a property pursuant to an agreement or arrangement, by the act of two or more parties, **and shall not include a security interest created merely by operation of any law for the time being in force**;"*

15. The application before us having been filed in 2024, it is necessary to examine the effective date of operation of this amendment. The identical provision and the date of its operation came up before Hon'ble Madras High Court in ***Avenue Realty v. Assistant Commissioner, Srirangam (GST Circle) & Ors., (2026) ibclaw.in 2350 HC***, wherein while considering the recent amendment, it has been held to be clarificatory in nature and consequently retrospective in operation. The observations of Hon'ble Court in this behalf read as under:

*38. Section 2 of the Amendment Act amends Section 3(31) of the Insolvency and Bankruptcy Code, thereby clarifying the nature of "security interest", which reads as follows: "Explanation. For the removal of doubts, it is hereby clarified that the security interest shall exist only if it creates a right, title or interest or a claim to a property pursuant to an agreement or arrangement, by the act of two or more parties, and shall not include a security interest created merely by operation of any law for the time being in force."*

*39. The Statement of Objects and Reasons for the aforesaid amendment is as follows: "Clause 2 of the Bill seeks to amend section 3 of the Insolvency and Bankruptcy Code, 2016 ('Code'). It seeks to insert an explanation in clause (31) of section 3 of the Code to clarify that security interest shall exist only when it creates a right, title or interest or a claim to a property pursuant to an agreement or arrangement by the act of two or more parties and shall not include a security interest created merely by operation of any law for the time being in force. Hence, a provision in central or state legislation or a subordinate law that states that a charge will be made on the property of the corporate debtor for nonpayment of tax or a penalty shall not be considered a security interest. A security interest shall only exist where the parties to an agreement or arrangement agree to create a right, title or interest or a claim to a property, whether or not it is in writing. For instance, a charge created over the property of the corporate debtor to secure the financial debt under an agreement, or*

*an arrangement where a mortgage is created by deposit of title deeds of its property between two or more persons."*

***40. Thus, the amendment explicitly seeks to undo the consequences of the decision in Rainbow Papers. Being a clarificatory amendment, there is no doubt that it will have retrospective application.*** *In this regard, the judgment of the Hon'ble Supreme Court in R. Rajagopal Reddy vs Padmini Chandrasekharan reported in AIR 1996 SC 238, is extracted below:*

> *"17. As regards, reason No. 3, we are of the considered view that the Act cannot be treated to be declaratory in nature. Declaratory enactment declares and clarifies the real intention of the legislature in connection with an earlier existing transaction or enactment, it does not create new rights or obligations. On the express language of Section 3, the Act cannot be said to be declaratory but in substance it is prohibitory in nature and seeks to destroy the rights of the real owner qua properties held benami and in this connection it has taken away the right of the real owner both for filing a suit or for taking such a defence in a suit by benamidar. Such an Act which prohibits benami transactions and destroys rights flowing from such transactions as existing earlier is really not a declaratory enactment. With respect, we disagree with the line of reasoning which commanded to the Division Bench. In this connection, we may refer to the following observations in 'Principles of Statutory Interpretation', 5th Edition 1992, by Shri G.P. Singh, at page 315 under the caption 'Declaratory statutes': The presumption against retrospective operation is not applicable to declaratory statutes. As states in CRAIES and approved by the Supreme Court: "For modern purposes a declaratory Act may be defined as an Act to remove doubts existing as to the common law, or the meaning or effect of any statute. Such Acts are usually held to be retrospective. The usual reason for passing a declaratory Act is to set aside what Parliament deems to have been a judicial error whether in the statement of the common law or in the interpretation of statutes. Usually, if not invariably, such an Act contains a preamble, and also the word 'declared' as well as the word 'enacted'. But the use of the words 'it is declared' is not conclusive that the Act is declaratory for these words may, at times be used to introduce new rules of law and the Act in the latter case will only be amending the law and will not necessarily be retrospective. In determining, therefore, the nature of the Act, regard must be had to the substance rather than to the form. If a new Act is to explain an earlier Act, it would be without object unless construed retrospective. An explanatory Act is generally passed to supply an obvious omission or to clear up doubts as to the meaning of the previous Act. It is well settled that if a statute is curative or merely declaratory of the previous law retrospective operation is generally intended. The language 'shall be deemed always to have meant' is declaratory, and is in plain terms*

> *retrospective. In the absence of clear words indicating that the amending Act is declaratory, it would not be so construed when the pre-amended provision was clear and unambiguous. An amending Act may be purely clarificatory to clear a meaning of a provision of the principal Act which was already implicit. A clarificatory amendment of this nature will have retrospective effect and, therefore, if the principal Act was existing law when the constitution came into force the amending Act also will be part of the existing law.*

40. Further, the Hon'ble NCLAT in ***Greater Noida Industrial Development Authority v. Anand Sonbhadra (RP) and Ors., (2026) ibclaw.in 1060 NCLAT*** while considering the amended Section 3(31), has similarly recognised the distinction between a security interest created pursuant to an agreement or arrangement between parties and an interest arising merely by operation of law and has held that

> ***56****……..we are not inclined to accept the proposition, on which GNIDA and NOIDA principally rely is that a statutory charge of this kind, created under Sections 13, 13-A and 14 of the UPIDA, constitutes a "security interest" for the purposes of the Code which was settled in their favour by the Supreme Court in* ***Prabhjit Singh Soni (supra),*** *tracing its lineage to Rainbow Papers Ltd. (supra)*
>
> *57. We further observe that this position no longer holds without qualification. The Insolvency and Bankruptcy Code (Amendment) Act, 2026 (Act No. 6 of 2026), which received Presidential assent on 06.04.2026, inserts an Explanation to Section 3(31) of the Code providing, in substance, that a "security interest" does not include any interest, lien or charge created purely by operation of law including a statutory charge and that a security interest, to so qualify, must arise from an agreement or arrangement between two or more parties. A corresponding Explanation to Section 53(1)(e)(i) of the code further amplify that amounts due to the Central or State Government are not to be accorded secured-creditor priority by reason only of a charge created by operation of law. These provisions, along with Sections 8 to 33 of the 2026 Act generally, were brought into force with effect from 26.05.2026 by notification S.O. 2625(E) dated 22.05.2026 issued by the Ministry of Corporate Affairs.*

41. The aforesaid Legal proposition has been further reiterated by the Hon'ble NCLAT in ***State Tax Officer v. CA Vinod T. Agrawal (RP) and Ors., (2026) ibclaw.in 1116 NCLAT*** wherein it has been held that

> ***40.*** *This position has been further clarified by a subsequent amendment to the Insolvency and Bankruptcy Code, 2016. Parliament enacted the Insolvency and Bankruptcy Code (Amendment) Act, 2026, which came into effect w.e.f. 26.05.2026. The Amendment Act inserted an Explanation to Section 3(31) of the Code. The official text provides that, for removal of doubts, a security interest shall exist only where the right, title, interest or claim to property arises pursuant to an agreement or arrangement by the act of two or more parties, and that a security interest created merely by operation of any law for the time being in force is excluded. ……..*
> *41. The amendment is directly relevant because the Appellant does not rely upon any mortgage, hypothecation, pledge, contractual charge or other agreement or arrangement entered into with the Corporate Debtor. The alleged security interest in the present case is claimed to arise entirely by operation of statutory provisions, namely Section 9(2) of the CST Act. The Explanation has been introduced "for the removal of doubts". A provision which is clarificatory in nature does not ordinarily create a new law from the date of its enactment; its purpose is to explain and make clear the meaning of the existing statutory provision from the date of the enactment of the statutory provision. Such a provision therefore operates retrospectively and applies to pending proceedings, unless the statute expressly provides otherwise. The mere fact that the clarification was enacted in 2026 does not mean that we could ignore it while deciding a pending appeal arising from an earlier order.*

16. The legislative amendment although subsequent to the filing of application under disposal yet having been held to operate retrospectively, has unambiguously altered the canvassed preposition by excluding from the ambit of Security Interest a charge created merely by operation of law.

17. As a corollary, the Applicant cannot claim to be a Secured-Creditor and seek classification as such by the respondent on the basis of statutory first charge under Section 48 of the GVAT Act.

**18. In view of the aforegoing, I.A. No. 723/2024 is hereby dismissed.**

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| **-Sd/-** | **-Sd/-** |
| **RADHAKRISHNA SREEPADA** | **SUNIL KUMAR AGGARWAL** |
| **MEMBER (TECHNICAL)** | **MEMBER (JUDICIAL)** |