IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.312

IA/120(AHM)2022
in
CP(IB) 169 of 2019

Proceedings under Section 60(5) IB Code, 2016

IN THE MATTER OF:

Ravindra Kumar Goyal Liquidator of Nakoda Ltd **.....Applicant**
V/s
Assistant Commissioner of Income Tax & Ors **.....Respondents**

Order delivered on: 23/11/2026

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

O R D E R
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT - I, AHMEDABAD

IA No.120 (AHM) of 2022
IN
CP (IB) No. 169 (AHM) of 2019

(*Application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016)*

Ravindra Kumar Goyal,
Liquidator of Nakoda Limited
Eden I- 807, Godrej Garden
Jagat Pura, SG Highway, Ahmedabad
Gujarat- 382470

...Applicant/Liquidator

VERSUS

1. Assistant Commissioner of
Income Tax Benami Prohibition, Surat
Room No. 216, Aayakar Bhawan,
Majura Gate, Surat, Gujarat- 395001

2. Office of the Assistant State Tax Commissioner,
Block-11, Sales Tax Building,
5th Floor, Opp. Dayalji Baug,
Nanpura, Surat, Gujarat.

3. Deputy Director, Directorate of Enforcement,
Surat Zonal Office, 115-116,
Hariom Awas Bungalows,
Nr. Valentine Multiplex,
Dumas Road, Surat, Gujarat.

4. Additional Superintendent of Police
Central Bureau of Investigation,
Economic Offices Wing,
11th Floor, Plot No, C-35A,
'G' Block, Sandra Kurla Complex,
Bandra (East), Mumbai - 400098

……. Respondents

Order Pronounced On: 23.11.2026

C O R A M

MR. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
MR. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

A P P E A R A N C E:

For the Applicants : Mr. Arjun Sheth, Advocate
For the Respondents : Mr. Hitesh P. Vacchani, Advocate
For State Tax Department (R-2).

O R D E R
Per Bench

1. This Interlocutory Application was filed on 28.01.2022 by the Applicant, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, seeking delivery of possession, custody, control, records and access concerning the assets of Nakoda Limited, and restraint against their sale, transfer or disposal by the Respondents with the following reliefs: -

a. *To issue appropriate directions to the Respondents and whoever is in possession, occupation. and control of the assets of the Corporate Debtor to hand over possession, custody and control of the assets of the Corporate Debtor to the Applicant, without any hinderance;*

b. *To issue appropriate directions to the Respondents to ensure that no action Is taken by Respondents for sale, transfer or disposal of any assets of the Corporate Debtor;*

c. *To issue appropriate directions to the Respondents and whoever is in possession, occupation and/or control of the assets of the Corporate Debtor, to allow the*

Applicant and/or his representatives access to and to provide all necessary documents, information and access to all records and assets of the Corporate Debtor, pending the hearing and final disposal of the present application.

d. *To issue appropriate directions restricting the Respondents and whoever is in possession, occupation and/or control of the assets of 'the Corporate Debtor, from dealing with the assets of the Corporate Debtor in any manner whatsoever, pending the hearing and final disposal of the present application;*

e. *To pass such other order(s) as the Hon'ble Tribunal may deem fit and appropriate in the facts and appropriate in the facts and circumstances of the case*

2. The Corporate Debtor, Nakoda Limited, entered a gas supply agreement with Gujarat Gas Limited on 16.09.2011, terminated with effect from 01.05.2017. Gujarat Gas Limited communicated on 10.05.2017 regarding adjustment and refund of the deposit; the refund later became subject to a CBI/EOW freezing notice dated 07.10.2019 under Section 102 CrPC.

3. The Enforcement Directorate attached land, buildings, plant and machinery at Karanj, Surat, by order dated 13.04.2018, and nine windmills with associated land in Tamil Nadu by order dated 31.12.2019 under Section 5(1) PMLA. Its eviction notice followed on 04.12.2020; these assets are identified as Schedules A and B in the Liquidator's affidavit dated 23.09.2026.

4. The State Tax Department attached Blocks 1 to 16 of Nakoda Estate, Karanj, by order dated 16.07.2018, issued

further orders on 16.07.2020 and attached Blocks 17 to 19 on 09.02.2021. The Department asserts a statutory first charge under Section 48 of the Gujarat Value Added Tax Act, 2003; the Liquidator disputes creation of any enforceable charge pursuant to the order dated 16.07.2018.

5. The Benami authority issued attachment orders dated 01.11.2019 and 29.06.2021 under the Prohibition of Benami Property Transactions Act, 1988. The Income Tax additional affidavit dated 30.04.2024 refers to share application and premium of Rs. 111,24,15,500/- and unsecured loans of Rs. 1,50,58,000/-, and to orders dated 29.07.2022 under Section 26(3).

6. On 12.07.2021 this Tribunal admitted the petition under Section 7 IBC, appointed Vikas Prakash Gupta as IRP and declared the Section 14 moratorium. Public announcement was made on 15.07.2021; the IRP sought release of State Tax attachments by communication dated 25.09.2021, annexed as Annexure E to the Liquidator's affidavit dated 23.09.2026.

7. The State Tax Department submitted a claim of Rs. 1,102,90,81,633/- on 20.07.2021. The chronology and written submissions record admission of Rs. 7,75,225/- on 28.09.2021, with Rs. 1,102,83,06,408/- disputed; paragraph 22 of the affidavit dated 23.09.2026 instead

states Rs. 7,65,225/-. The claim register shall determine the recorded admitted amount.

8. By communication dated 16.10.2021 the State Tax Department invoked Section 48 GVAT Act. Its affidavits and written submissions refer to Section 34 assessments, revenue-record entries under Sections 152 and 200 of the Bombay Land Revenue Code, and the Gujarat VAT Tribunal's remand order dated 27.06.2022; the latter is Annexure A to the pursis dated 28.09.2026.

9. The IRP filed I.A. No. 120 of 2022 on 28.01.2022. On 08.02.2023 liquidation was ordered in I.A. No. 119 of 2022 and Ravindra Kumar Goyal was appointed Liquidator; announcement followed on 10.02.2023. Section 33(5), Sections 35 and 36 IBC govern the Liquidator's custody, realization and conduct of the estate.

10. The State Tax Department submitted Form C on 06.03.2023 claiming Rs. 1,292,59,65,381/-. The Liquidator's email dated 10.04.2023 declined admission as claimed because appeals remained pending; that email is Annexure B to the pursis dated 28.09.2026. I.A. No. 1056 of 2023 challenges the claim decision and secured-creditor classification which, was dismissed for default by order dated 27.01.2026; no subsisting relief in that application is determined herein.

11. The State Tax affidavit dated 26.06.2024 encloses appellate orders as Annexure R-1 and records disposal of tax appeals on 27.02.2024. The later pursis dated 28.09.2026 asserts no fresh order following remand dated 27.06.2022. These statements require reconciliation by reference to assessment years and appeal numbers; the Tribunal does not treat every disputed assessment as finally determined.

12. The Income Tax additional affidavit encloses orders dated 29.07.2022 as Annexure A (colly.), NCLAT judgments dated 18.08.2022 and 13.03.2023 as Annexure B (colly.), and Supreme Court case-status material as Annexure C (colly.). It relies on *C. Ramasubramaniam v. Deputy Commissioner of Income Tax (Benami Prohibition)*, Company Appeal (AT) (Ins.) No. 292 of 2022, decided 18.08.2022, on the statutory Benami remedy.

13. The Income Tax authority also cites *P. V. Papers and Boards Pvt. Ltd. v. Deputy Commissioner of Income Tax (Benami Prohibition)*, Company Appeal (AT) (Ins.) No. 188 of 2022, decided 13.03.2023. These decisions are relied upon for the proposition that Benami attachment adjudication and appellate remedies cannot be displaced by an application under Section 60(5) IBC; no confiscation finding is made herein.

14. The Enforcement Directorate's comments dated 18.04.2024 cite *Shiv Charan v. Adjudicating Authority*,

Writ Petition No. 9943 of 2023 (Bombay High Court), concerning Section 32A IBC and PMLA attachment; Annexures A and B contain Gujarat High Court orders dated 23.08.2021 and 27.03.2024. The submissions dated 08.10.2024 discuss *Vantage Point Asset Pvt. Ltd. v. Gaurav Misra*, Company Appeal (AT) (Ins.) No. 1495 of 2024, and annex a Supreme Court order dated 12.08.2024 as Annexure A.

15. The State Tax Department relies on *State Tax Officer v. Rainbow Papers Ltd.*, (2022) 9 SCC 330, Civil Appeal No. 1661 of 2020, regarding Section 48 GVAT and statutory secured-creditor status. It also cites *Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs*, (2023) 1 SCC 472, Civil Appeal No. 7667 of 2021, holding that assessment may continue but recovery or confiscation during the applicable moratorium cannot bypass IBC.

16. However, the Explanation to Section 3(31) IBC, inserted by Act 6 of 2026 and brought into force on 26.05.2026, excludes security interest created merely by operation of law. Sections 52 and 53 govern liquidation realization and distribution, subject to commencement and transition provisions; the treatment of the State Tax claim shall follow the applicable law and verified claim record.

17. The Liquidator's sale application I.A. No. 1699 of 2024 followed the Stakeholders' Consultation Committee

meeting dated 23.08.2024. The record refers to sale of Lonavala flats on 16.01.2024 for Rs. 1,39,90,000/-, nine windmills on 15.02.2025 for Rs. 7,57,19,000/-, and Surat machinery on 09.03.2026 for Rs. 23,46,77,088/-; sale treatment remains subject to orders of competent courts.

18. The Liquidator filed M.A. No. 1024 of 2025 under the second proviso to Section 8(8) PMLA, copies of the application and ED reply being Annexures A and B to the pursis filed on 09.02.2026. By order dated 04.08.2026 the Special PMLA Court, Greater Mumbai, directed handover of the Schedule A and B assets for the creditors' benefit; that order is Annexure B to the affidavit dated 23.09.2026.

19. The Liquidator records distribution of Rs. 23,46,77,088/- on 25.08.2026 and Rs. 7,57,19,000/- on 19.09.2026 following the PMLA order. The Special CBI Court allowed Exh. 275 in Special Case No. 875 of 2023 on 27.08.2026 and directed de-freezing of Rs. 70,22,801/- held by Gujarat Gas Limited; that order is Annexure C to the affidavit dated 23.09.2026.

20. The Liquidator's affidavit identifies the order dated 26.07.2022 of the Benami Adjudicating Authority as Annexure D and states that the Schedule A attachment was revoked. The Income Tax affidavit separately relies upon orders dated 29.07.2022 concerning benamidars. Relief is confined to the identified property and operative

orders; disputed Benami title or attachment questions remain for the statutory forum.

21. Annexure A to the affidavit dated 23.09.2026 contains this Tribunal's direction dated 02.09.2026 seeking the status of all four authorities. The Liquidator's pursis dated 28.09.2026 also annexes the Tribunal's remand order and correspondence; the chronology dated 22.10.2026 states that the State Tax attachment dated 16.07.2018 continues to obstruct realization of Blocks 1 to 16.

22. Section 60(5) IBC permits directions concerning estate administration but not substitution for adjudication under the PMLA or PBPT Act. Section 238 prevails over inconsistent recovery measures; Sections 35, 36, 52 and 53 and the IBBI (Liquidation Process) Regulations, 2016 govern realization, proof of security and distribution. A disputed tax claim is not rejected solely because it is disputed within Section 3(6) IBC.

23. The State Tax Department shall, **within 15 days** of receipt of copy of this order, withdraw or release the attachment dated 16.07.2018 and consequential restraints over Blocks 1 to 16 insofar as they obstruct realization under the IBC, and communicate the release to the revenue-record authority. This direction does not determine the quantum of tax; any substantiated claim shall be dealt with under the IBC, without prejudice to remedies otherwise available in law.

24. As to ED, CBI/EOW and Income Tax (Benami), the Liquidator shall implement the respective orders dated 04.08.2026, 27.08.2026 and 26.07.2022 within their terms; liberty is reserved to approach the issuing courts or authorities for enforcement or clarification.

25. Accordingly, **IA No. 120 (AHM) of 2022** in CP (IB) No. 169 (AHM) of 2019 stands **disposed of** in the aforesaid terms. No order as to costs. A certified copy shall be communicated to the parties upon compliance with formalities.

Sd/-	**Sd/-**
SANJEEV SHARMA	**SHAMMI KHAN**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**