



NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT III

Item No. 111
I.A. 857/2024
I.A. 860/2024
I.A. 3446/2024
I.A. 446/2021
In
C.P. (IB)294(MB)/2018

CORAM: MS. LAKSHMI GURUNG, MEMBER (J)
SH. HARIHARAN NEELAKANTA IYER, MEMBER (T)

ORDER SHEET OF THE HEARING ON **23.07.2025**

HEARING THROUGH: (HYBRID) MODE

NAME OF THE PARTIES: IDBI Bank Ltd.

VS

S Kumars Nationwide Ltd.

Appearance

For Liquidator : Adv. Prakash Shinde a/w Ruchita Jain i/b MDP legal

For Applicant : Adv. Amir Arsiwala a/w. Adv. Vaishnavi Dhure in

IA 857/2024

Adv. Nikhat Chaudhary i/b Jyoyi Narayan Kholia & Co.

in IA. 3969/2025

Adv. Maithili Gala i/b Lex conseiller in IA 446/2021

For Respondent : Adv. Monisha Kasturi for R-1 Electricity Department

Adv. Siddharth Singh in I.A. 860/2024



SECTION 7 OF THE IBC

ORDER

I.A. 857/2024

1. This application has been filed by successful auction purchaser, M/s. Agra Gwalior Pathways Pvt Ltd against Madhya Pradesh Paschim Kshetra Vidyut Vitaran (R-1) seeking following prayers and where Liquidator has been arrayed in the Memo of Parties as R-2 as Proforma Party:
 - i. *Pass an order directing the Respondent No. 1, i.e., Madhya Pradesh Paschim Kshetra Vidyut Vitaran Company Limited to not withhold the electricity connection for non-payment of dues prior to the date of Issuance of the Sale Certificate dated the 13th of April, 2021;*
 - ii. *Direct the Respondent No. 1 to forthwith supply the Applicant with the requisite electricity connection for the properties situated at Patwari Halka No. 57, Village Balgarh, Tehsil & District Dewas, Madhya Pradesh and Patwari Halka No. 57, Village Shankargarh & Balgarh, Tehsil & District Dewas, Madhya Pradesh;*
 - iii. *Pass any other order(s) or directions(s) that this Hon'ble Tribunal may deem fit in the facts and circumstances of this case.*
2. It is submitted that CIRP of the corporate debtor commenced on 24.04.2018. During the liquidation process, the above properties of the corporate debtor were put to e-auction and upon applicant emerging as the successful purchaser and having paid the entire sale consideration, were sold to the Applicant. Following two sale certificates were issued:

S. N	Date of certificate of sale	Short description of assets	Sale consideration (in Rs.)
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1.	13.04.2021	Land admeasuring 50,810 Sq.Mtr. situated at Gram Balgarh: Halka 57 Balgarh along with Tulja Building and other buildings and staff quarters etc.	21,30,00,000/-
2.	18.04.2021	Chamunda Standard Mill including land and building	35,98,00,000/-

3. The applicant has annexed the copies of (i) e-auction sale notices (ii) certificates of sale and (iii) registration certificates issued by Sub Registrar Office, Dewas, Madhya Pradesh.
4. It is submitted by the applicant that after acquisition of the above properties, the applicant applied for connection of electricity vide letter dated 26.05.2022 which is annexed at Annexure 12 page 166 of the application. However, Respondent No.1 has refused to provide the electricity connection on account of past dues amounting to Rs. 99,49,857/-.
5. Reply on behalf of both the respondents are on record. The stand of Respondent No.1 is that the above properties have been sold on “As is where is basis”, “as is what is basis”, “whatever there is basis” and “No recourse basis”. Therefore, the purchase properties were transferred to the applicant along with the liabilities of electricity dues of Rs. 99,49,857/-. Therefore, the successful purchaser has to deposit the transfer amounts.
6. The R-1 has relied on judgement in the case of **Telangana State Southern Power Distribution Company Ltd & Anr. Vs. Srighdaa Beverages (2020) 6 SCC 404** which dealt with auction of a unit under SARFAESI Act, 2002 and Hon’ble Supreme Court stated that electricity



dues are statutory in character and cannot be waived in view of section 56 of the Electricity Act, 2003 as they cannot partake the character of dues of purely contractual nature.

7. The respondent submits that Electricity Act, 2003 has an overriding effect on all other laws. Being special law relating to all aspects of electricity, it has primacy over all other laws including the Insolvency and Bankruptcy Code. In the end, the respondent has prayed for release of outstanding dues of Rs. 99,49,857/- before supply of electricity connection for the mentioned properties.
8. In its Reply, the liquidator has stated that R-1 had filed its claim for an amount of Rs. 99,49,857/- which has been fully admitted. Upon sale of the property of the corporate debtor, the payment would be distributed to the stakeholders in accordance with the provisions of Section 53 of the Code and accordingly the dues of the R-1 would stand settled upon distribution of the assets of the corporate debtor.
9. We have considered the submissions of the applicant as well as submissions of the Respondents. The law is well settled, once the Authority files its claim with the liquidator, the said claim has to be settled in accordance with the waterfall mechanism provided under Section 53 of the Code and the dues of the statutory authority are covered under 53(1)(e) of the Code. Therefore, the Government Authority cannot refuse to grant electricity connection only on account of past dues for which claims have been submitted to liquidator and have been admitted by the Liquidator and are to be dealt with in accordance with Section 53 of the Code.
10. Ld. Counsel for the applicant relied on the following judgements:



- a. *Tata Power Western Odisha Distribution Ltd and Another vs. Jagannath Sponge Pvt Ltd, Civil Appeal No. 5556/2023;*
- b. *Official Liquidator vs. Ujjain Nagar Palika Nigam, Civil Appeal No. 8015 and 8016 of 2010;*
- c. *Ghanshyamdas Mishra vs Edelwise Asset Reconstruction Company, Civil Appeal No. 8129 of 2019*

11. In ***Paschimanchal Vidyut Vitran Nigam Ltd. V. Raman Ispat Private Limited & Ors. Civil Appeal Nos. 7976 OF 2019 decided on 17.07.2023***, the Hon'ble Supreme has held as follows:

“Section 53, as held earlier, enacts the waterfall mechanism providing for the hierarchy or priority of claims of various classes of creditors. The careful design of Section 53 locates amounts payable to secured creditors and workmen at the second place, after the costs and expenses of the liquidator payable during the liquidation proceedings. However, the dues payable to the government are placed much below those of secured creditors and even unsecured and operational creditors.”

12. In the light of the clear law laid down by Hon'ble Supreme, the claims of R-1 shall stand settled on distribution of liquidation estate by the liquidator, in accordance with the 'waterfall mechanism' provided under section 53 of the Code. Upon receipt of payment from liquidator as per Section 53 of the Code, the admitted claims of R-1 for Rs.99,49,857/- shall stand settled.
13. In the wake, we direct Madhya Pradesh Paschim Kshetra Vidyut Vitaran Company Limited to consider the application of the applicant accordingly.
14. With the above observations and directions, I.A. stands **disposed of**.

I.A. 860/2024



1. This application has been filed by successful auction purchaser, M/s. Agra Gwalior Pathways Pvt Ltd against Respondent No.1, Nagar Palik Nigam Dewas and Respondent No.2 Liquidator seeking following prayers:
 - i. *Pass an order directing the Respondent No.1, i.e. Dewas Nagar Palik Nigam not to demand Property Tax due prior to Issuance of Sale Certificate 13th of April, 2021, from the Successful Auction Purchaser, i.e. the Applicant above-named;*
 - ii. *Pass any other order(s) or direction(s) that this Hon'ble Tribunal may deem fit in the facts and circumstances of this case.*
2. It is the case of the applicant that the said property was purchased during the liquidation process through e-auction and the sale certificate dated 13.04.2021 was issued by the liquidator in favour of the applicant. Thereafter, the applicant applied for the mutation in favour of the applicant. In response to which, the applicant received letter bearing No. 5131 dated 28.10.2021 from the R-1 restraining the applicant to take out any construction activities till the outstanding property tax amounting to Rs. 3.25 crores is paid to the R-1.
3. The applicant replied to the said letter pointing out the provisions of the IBC which supersedes any other law. However, Respondent No.1 have not withdrawn their demand of Rs. 3.25 crores till date.
4. Reply dated 01.03.2025 has been filed by the Revenue Officer, Municipal Corporation, Dewas, MP on behalf of R-1. The crux of the reply is that there are various municipal taxes ought to R-1. The property in question has been sold on "As is where is basis", "As is what is basis", "Whatever there is basis" and "No Recourse basis". Therefore, the liability attached to the property, as reflected in the reply filed by R-2 admitting the claim of R-1, does not get extinguished and R-1 is well within its rights to refuse



mutation in favour of the applicant till the outstanding property tax as admitted by the liquidator is received.

5. Perused the reply filed by the Liquidator wherein it is stated that Nagar Palik Nigam Dewas has filed its claim aggregating to Rs. 3,54,16,203/- which has been partially admitted as follows:

S.N.	Name of the Statutory Authority	Amount Claimed (Rs.)	Amount Admitted (Rs.)
1.	Nagar Palika Nigam, Dewas - Chamunda Standard Mills	3,25,27,68	3,00,83,419
2.	Nagar Palika Nigam, Dewas - Amana Mills	28,88,516	24,36,660
	Total		3,25,20,079

6. The said list of creditors showing the R-1 as one of the stakeholders with their admitted claim has been annexed at Exhibit-2 to the reply of the liquidator.
7. It is thus seen that the outstanding claim of R-1 has been partially admitted and shall be dealt with in accordance with the provisions of section 53 of the Code. It is well settled law that the claim filed with the liquidator as on commencement of the liquidation stands settled in accordance with the provisions of section 53 of the Code. Therefore, the amount demanded by R-1 filed through their claim before the liquidator cannot be demanded any more as the same get extinguished after the distribution of the assets of the corporate debtor in accordance with the waterfall mechanism provided under Section 53 of IBC.



8. In ***Paschimanchal Vidyut Vitran Nigam Ltd. V. Raman Ispat Private Limited & Ors. Civil Appeal Nos. 7976 OF 2019 decided on 17.07.2023***, the Hon'ble Supreme has held as follows:

“Section 53, as held earlier, enacts the waterfall mechanism providing for the hierarchy or priority of claims of various classes of creditors. The careful design of Section 53 locates amounts payable to secured creditors and workmen at the second place, after the costs and expenses of the liquidator payable during the liquidation proceedings. However, the dues payable to the government are placed much below those of secured creditors and even unsecured and operational creditors.”

9. In the light of the clear law laid down by Hon'ble Supreme Court, the claims of R-1 shall stand settled on distribution of liquidation estate by the liquidator, in accordance with the 'waterfall mechanism' provided under section 53 of the Code. Upon receipt of payment from liquidator as per Section 53 of the Code, the admitted claims of R-1 shall stand settled and we direct R-1 not to demand past dues once payment is received from the liquidator for the claim amount already admitted by the liquidator.
10. With the above observations and directions, I.A. is **allowed** and **stands disposed of**.

I.A. 3446/2024

1. This application has been filed by the liquidator seeking encashment of FDR maintained with the Respondent No.1, IDBI Bank.
2. Despite multiple opportunities given to the Respondents, the reply has not been filed. Vide order dated 10.03.2025, one more opportunity was granted to all respondents to file reply within two weeks. However, reply has not been filed. One last and final opportunity is granted to all respondents to file reply within two weeks failing which their right to file reply shall stand forfeited. List on **19.09.2025**.



I.A. 446/2021

Ld. Counsel for the applicant seeks time on the ground that arguing counsel is held up before the other court.

Pleadings are complete in this matter. List on **19.09.2025**. No further adjournment would be granted.

Sd/-
HARIHARAN NEELAKANTA IYER
Member (Technical)
---Rajeev---

Sd/-
LAKSHMI GURUNG
Member (Judicial)