

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH
[Through Physical hearing/ VC Mode (Hybrid)]

ITEM No.12
IA(IBC) 693/2024 in
CP (IB) No. 32/BB/2021

IN THE MATTER OF:

Mr. Putta Kempanna ... Applicant
Vs. ... Respondent
M/s. Welworth Software Pvt. Ltd. ... Respondent

Petition under Section 7 of the I & B Code, 2016

Order delivered on: 25.11.2025

CORAM:

SHRI SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)

SHRI RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

COUNSELS PRESENT:

For the Liquidator : Shri Narayana Kamma

ORDER

IA(IBC) 693/2024 is **allowed and disposed** vide separate order.

List the main C.P on 02.02.2026.

-Sd-
RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-
SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)

BL

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

*(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)*

I.A. No. 693 of 2024

in

C.P. (IB) No. 32/BB/2021

(Application under Sections 35(1)(b), (e), (k), (n) and Section 60 (5) the IBC, 2016,
read with Rule 11 of the NCLT Rules, 2016)

IN THE MATTER OF

WELWORTH SOFTWARE PRIVATE LIMITED

Represented by *its Liquidator, Mr. Narayana Kamma,*
E 1807, Brigade Gateway,
26/1, Dr. Rajkumar Road,
Malleshwaram West, Bangalore - 560055

... Applicant

Versus

SRI AKSHAYA KUMAR KARUNAM,

Erstwhile Director of Welworth Software Pvt. Ltd.
2170, 4th Main, 5th Cross, Near RPC Layout Post Office,
Hampinagara, Bengaluru – 560104.

... Respondent

IN THE MAIN MATTER OF

Sri Putta Kempanna

... Financial Creditor

Versus

Welworth Software Private Limited

... Corporate Debtor

Order delivered on: 25.11.2025

Coram:

1. Shri Sunil Kumar Aggarwal, Hon'ble Member (Judicial)
2. Shri Radhakrishna Sreepada, Hon'ble Member (Technical)

O R D E R

I.A.(IBC) No. 693 of 2024 in C.P. (IB) No. 32/BB/2021

1. The present application is filed by the Liquidator of Welworth Software Pvt. Ltd. (“Corporate Debtor”) under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of NCLT Rules for directions to the Respondents to deposit the amount belonging to the Corporate Debtor into the Liquidation Account.
2. Brief relevant facts of the Application are as follows: -
 - i. The Corporate Debtor, Welworth Software Private Limited, was admitted to CIRP on 01.02.2022 in the main petition. As no Resolution Plan was received, the Corporate Debtor was ordered to be liquidated vide order dated 30.11.2022 in I.A. No.163/2022, and Mr. Narayana Kamma was appointed as the Liquidator.
 - ii. A Public Announcement in Form B was issued on 08.01.2023 in “The Hindu” (English) and “Vijayavani” (Kannada), inviting claims in accordance with Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016.
 - iii. During CIRP, a Transaction Audit was initiated by appointing ***Dipak Agarwal & Co. CA*** on 04.04.2022 to examine transactions u/s 43, 45, 46 & 66 of the IBC for the period 01.02.2017 to 31.01.2022.
 - iv. The erstwhile directors of Corporate Debtor were directed to cooperate and furnish records to enable the conduct of the process in I.A.65/2023. The Transaction Auditor’s report, submitted on 30.11.2023, it was recorded that a cash amount of Rs. 47,98,000/- was seized by the CBI from the premises of the Corporate Debtor on 05.10.2020.
 - v. The Respondent had filed CrI.P. No.687/2021 before Hon’ble High Court of Karnataka under Section 482 Cr.P.C. seeking release of the amount seized during the CBI raid, stating that the amount belonged to Corporate Debtor.

- vi. Based on the said submission, the Hon'ble High Court of Karnataka, by order dated 04.03.2021, directed the CBI to return the amount of Rs. 47,98,000/- to the Respondent, who was then representing the Corporate Debtor. The Liquidator issued a notice dated 11.09.2023 seeking clarification regarding the said amount or deposit of the amount into the Liquidator's account within 15 days. No response has been received to the said notice as on date. Hence the present application.
3. The Respondent has filed reply to the application on 08.04.2025 stating the follows:
- i. The Respondent submits that amount of Rs. 47,98,000/- was seized by the Central Bureau of Investigation (CBI) under memo dated 05.10.2020 from the premises of the Corporate Debtor during a search conducted in connection with Criminal Case No. R.C.10 (A)/2020 registered against Mr. DK Shivakumar.
 - ii. The Respondent states that subsequent proceedings were pending before the LXXXI Additional City Civil & Sessions Judge (Special Court – CCH-82), Bengaluru, exclusively dealing with criminal cases related to elected Members of Parliament and Members of Legislative Assembly in Karnataka, Bangalore.
 - iii. The Respondent filed Criminal Petition No. 687/2021 under Section 482 of the Code of Criminal Procedure before the Hon'ble High Court of Karnataka, seeking release of the seized amount of Rs. 47,98,000/- on the ground that the Respondent was the rightful owner thereof and legally entitled to its interim custody.
 - iv. The Hon'ble High Court of Karnataka, vide order dated 20.01.2021, directed the CBI to release the amount of Rs.47,98,000/- to the Corporate Debtor in accordance with the guidelines issued by the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai vs. State of Gujarat*, subject to the
I.A.(IBC) No. 693 of 2024 in C.P. (IB) No. 32/BB/2021

Respondent executing an indemnity bond for an equivalent amount and providing surety for a like sum to the satisfaction of the trial court.

- v. In compliance thereof, the Respondent executed an indemnity bond and provided surety by depositing title deeds of properties equivalent to Rs. 47,98,000/- to the satisfaction of the court on behalf of the Corporate Debtor, following which the amount was released to the Respondent.
 - vi. The Respondent submits that, as the Hon'ble High Court of Karnataka has held that the amount rightfully belongs to the Corporate Debtor, the Respondent is willing to deposit the said amount into the Corporate Debtor's account, subject to the condition that the Respondent is discharged from the indemnity bond and the properties provided as surety to the trial court are released.
4. Heard Learned Counsels for the parties. We have carefully perused the pleadings and documents on record.
 5. The present Application is to be considered in light of the scheme of liquidation under the Insolvency and Bankruptcy Code, 2016, particularly Sections 33, 35 and 36, which mandate formation of the liquidation estate and enjoins Liquidator to take into custody and control all assets belonging to or vested in the corporate debtor as on the insolvency commencement date, irrespective of whose possession they are in, subject only to the exclusions expressly set out in Section 36(4). Any monies or properties which have been judicially recognised as belonging to the corporate debtor, even if presently lying with a third party or under orders of a criminal court, therefore necessarily fall within the liquidation estate to be placed under the control of the liquidator for equitable treatment of stakeholders under the IBC framework.

6. Once liquidation is ordered, all assets “belonging to or vested in” the corporate debtor on the insolvency commencement date form part of the liquidation estate, irrespective of whether such assets are in the actual possession of the corporate debtor or are held by any person or authority, subject only to the exclusions in Section 36(4) of the Code. Cash seized by an investigating agency from the premises of the corporate debtor, and later released on the specific finding that it belongs to the corporate debtor, falls within the ambit of Section 36(3)(b), (e) and (h) as an asset whose title is with the corporate debtor and which must be brought into the common pool for distribution amongst stakeholders.
7. It is pertinent to note that orders passed by criminal courts for interim custody of seized property under Sections 451, 457 and 482 Cr.P.C. are intended to preserve the property and return it to the person ultimately found entitled, and do not create any proprietary right in favour of the custodian; the custodian holds the property subject to final orders of the Competent Court and subject to underlying civil or insolvency regimes. The indemnity bond and surety taken by the criminal court in terms of the guidelines laid down in *Sunderbhai Ambalal Desai v. State of Gujarat* are risk-mitigation measures to protect the criminal court’s jurisdiction and do not alter the character of the property as belonging to the corporate debtor.
8. The Liquidator is duty-bound to take into custody and control all assets and properties of the corporate debtor, including assets which are seized, attached or otherwise held by third parties, and such seizure or attachment cannot defeat the overriding scheme of the Code, subject of course to coordination with the concerned court or authority. At the same time, comity of courts requires that directions issued by the Adjudicating Authority under the IBC should, where necessary, be accompanied by a requirement to approach the criminal court for

variation/discharge of any subsisting indemnity bonds or sureties, so that the custodian is not left exposed to double liability.

9. To support the above-mentioned reasoning, the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai v. State of Gujarat, (2002) 10 SCC 283***, has held that seized property is to be returned to the person entitled to possession and should not be kept in custody longer than necessary, and that courts may release such property on execution of bonds or sureties. This judgment underpins the High Court's order in Crl.P. No. 687/2021 releasing Rs. 47,98,000/- to the Corporate Debtor (through the Respondent) as interim custodian and confirms that title in the property remained with the Corporate Debtor.
10. Further, the Hon'ble NCLAT in ***National Spot Exchange Ltd. v. Namdhari Food International Pvt. Ltd. (through its Liquidator), NCLAT, 24.09.2021*** has held that seizure or attachment of accounts or properties of a corporate debtor by investigating agencies or authorities does not take such assets outside the liquidation estate, and the liquidator is duty-bound to take control of them subject to coordination with the concerned authority. The decision reiterates that assets of the corporate debtor, even if under attachment or seizure, ultimately must be dealt with under the IBC mechanism for distribution to creditors.
11. It is understood that the Hon'ble High Court of Karnataka has already proceeded on the basis that the seized amount of Rs. 47,98,000/- belonging to the Corporate Debtor and ordered its release in favor of the Corporate Debtor, with the Respondent acting as representative/custodian upon executing an indemnity bond and furnishing surety. Thus, there is an unequivocal judicial determination, at least prima facie, that the beneficial owner of the amount is the Corporate Debtor.

12. Under Section 36(3)(b), (e) and (h) of the IBC, read with Section 35, cash belonging to the Corporate Debtor, even if seized earlier by an investigating agency and released to a representative under orders of a criminal court, is an asset which must form part of the liquidation estate, irrespective of whose physical custody it is in. There is no exclusion in Section 36(4) that would justify keeping this asset outside the liquidation estate, and seizure by CBI or interim custody with the Respondent does not change the character of the asset. Further, the Respondent does not dispute that the amount belongs to the Corporate Debtor and has expressed willingness to deposit the same into the Corporate Debtor's account, conditioned only upon discharge from the indemnity bond and release of surety by the trial court. This concession, read with the High Court's order, reinforces that the Respondent is a mere custodian/trustee of the corporate debtor's money.
13. In line with the Hon'ble Supreme Court judgement, interim release of seized property to a person on indemnity is a measure to secure the interests of the criminal court and does not confer any independent proprietary right on such person. Therefore, the indemnity bond and surety are matters between the Respondent and the criminal court; they cannot be used to retain or delay remittance of corporate debtor funds which are required to be pooled into the liquidation estate under the overriding regime of the IBC. At the same time, to avoid exposing the Respondent to double liability, once towards the liquidation estate and again under the indemnity bond, this Tribunal can, while directing immediate deposit of the amount with the Liquidator, also permit/mandate the Liquidator and the Respondent to move an appropriate application before the trial court/Special Court for recording that the amount has been brought into the control of the Liquidator and for consequential discharge of the indemnity bond and release of surety. Such a coordinated approach respects the criminal court's jurisdiction while ensuring that the asset is not kept outside the IBC framework.

14. In view of the above, the Application deserves to be allowed by directing the Respondent to deposit Rs. 47,98,000/- (with accrued interest) into the bank account of the Liquidator of the Corporate Debtor to be treated as part of the liquidation estate under Section 36 of the Code and distributed in accordance with Section 53. The Respondent and the Liquidator shall approach Hon'ble High Court of Karnataka **within 15 days** for appropriate orders regarding discharge of the indemnity bond furnished by the respondent and direct release of his property documents by learned Special Court and permitting release of aforesaid amount by the respondent to the liquidation account of Corporate Debtor, on such conditions as may be deemed appropriate.

15. As such the **I.A. No. 693 of 2024** filed by the Liquidator **is hereby allowed and disposed of.**

-Sd-

RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-

SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)