

NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.206
IA/42(MP)2024 in IA 130 of 2020
in
TP 125 of 2019 [CP(IB) 159 of 2018]

Proceedings under Section 60(5)(c) r.w. Sec. 425

IN THE MATTER OF:

Amit Chopra, Liquidator of Bhagwan Motors Pvt Ltd
V/s
The Superintendent CGST & CEX

.....Applicant

.....Respondent

Coram:

Hon'ble Shri Brajendra Mani Tripathi, Member (J)
Hon'ble Shri Man Mohan Gupta Member (T)

PRONOUNCEMENT OF ORDER
Delivered on 05/12/2025

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/-

MAN MOHAN GUPTA
MEMBER (TECHNICAL)

Tomar

Sd/-

BRAJENDRA MANI TRIPATHI
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH

IA No. 42 (MP) of 2024
in
IA No. 130 (MP) of 2020
in
CP (IB) No. 159 of 2018

*(An interlocutory application filed under Section 60(5) of the Insolvency and
Bankruptcy Code, 2016, read with Section 425 of the Companies Act, 2013,
read with the Contempt of Courts Act, 1971.)*

IA No. 42 (MP) of 2024

Amit Chopra

Liquidator of Bhagwan Motors Pvt. Ltd.,
Reg. No. : IBBI/IPA-P00939/2017-2018/11543
Reg. Office : BCP Jain and Co. E-2/33,
Arera Colony, Bhopal, MP - 462016.
Email : cirp.bmpl@gmail.com
Mob. No.: 9302172979

.....Applicant

V/s

The Superintendent CGST & CEX

Range V, Division I, Pithampur.
Email ID : acpith2@gmail.com

.....Respondent

IN THE MAIN MATTER OF:

CP (IB) No. 159 of 2018

Harshad V Vora

.....Applicant

V/s

Bhagwan Motors Pvt Ltd

....Respondent

Order pronounced on: 05.12.2025

Coram:

Mr. Brajendra Mani Tripathi, Hon'ble Member (J)

Mr. Man Mohan Gupta, Hon'ble Member (T)

Appearance:

For the Applicant : Ms. Ayushi Patidar, PCA

For the Respondent : *Ex parte* (Order dated 16.09.2025)

J U D G E M E N T

1. This Interlocutory Application is filed on 21.01.2024, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (**the IB Code, 2016**), read with Section 425 of the Companies Act, 2013 (**the Act, 2013**), read with the Contempt of Courts Act, 1971, by Amit Chopra (**the Applicant**) Liquidator of M/s Bhagwan Motors Pvt. Ltd. (**the Corporate Debtor**) against the Superintendent CGST & CEX (**the Respondent**), for seeking to initiate contempt proceeding with appropriate penalties and costs which will ensure the respondent compliance with Adjudicating Authority orders and will maintain the integrity of judicial system.

2. **The Applicant's case in brief is:**

a) The Applicant submits that an Interlocutory Application filed in IA No.

130 (IND) of 2020 in CP (IB) 159 of 2018 by the Resolution Professional (RP) against the Respondent for the unauthorised recovery of funds during the moratorium. The Adjudicating Authority, in an order dated 01.09.2023 directed the respondent to refund the amount.

(Copy of Order of the Adjudicating Authority dated 01.09.2023 in IA No. 130 (IND) of 2020 is annexed and marked as **ANNEXURE P/1** to the Application.)

- b) The Applicant submits that in IA No. 53 of 2020, the Adjudicating Authority, passed a liquidation order dated 01.09.2023 under Section 33 (2) of the IB Code, 2016 and appointed the Applicant as the Liquidator.

(Copy of the Liquidation order of the Adjudicating Authority dated 01.09.2023 in IA No. 53 of 2020 is annexed and marked as **ANNEXURE P/2** to the Application.)

- c) The Applicant submits that, pursuant to the Hon'ble NCLT order dated 01.09.2023 in IA No. 130 of 2020, the Liquidator issued a communication dated 09.09.2023, dispatched via email on 12.09.2023, duly informing the Respondent of the said order and requesting compliance. Subsequently, a reminder letter dated 06.11.2023 was also issued, reiterating the directions of this Adjudicating Authority and urging prompt initiation of payment in accordance with the order.

- d) In addition, the Applicant personally visited the concerned department and held telephonic discussions with its officials to ensure that the Respondent was fully apprised of the order and the obligation to release the due refund amount. Despite such repeated intimation and ample opportunity to comply, the Respondent has wilfully failed and neglected to adhere to the binding directions of this Adjudicating Authority.
- e) Such non-compliance constitutes a deliberate disregard of judicial authority, undermines the sanctity of the orders of this Adjudicating Authority, and obstructs the completion of liquidation proceedings. The amount due forms part of the Liquidation Estate of the Corporate Debtor, and the Respondent's continued defiance warrants initiation of contempt proceedings to uphold the majesty of law and ensure effective implementation of the orders passed by this Hon'ble Tribunal.
3. The Respondent was duly notified through advance service by email on 20.01.2024, along with the main petition. However, no one appeared on behalf of the Respondent. Consequently, this Adjudicating Authority, by order dated 02.02.2024, directed the Applicant to serve the notice along with a copy of the compliance order upon the Respondent through speed post as well as email, and further directed the Applicant to file an affidavit evidencing such service. The Applicant complied with the said directions and

filed the requisite affidavit. Despite this, the Respondent failed to appear before this Authority. Therefore, by order dated 16.09.2025, the Respondent is proceeded **ex parte**.

Observations and Analysis

4. We have heard the learned counsel for the applicant and have meticulously perused the records placed before us.
5. The records reveal that an **Interlocutory Application (IA No. 130 (IND) of 2020)** was filed by the Resolution Professional against the Respondent for unauthorised recovery of funds during the moratorium period. In that application, RP had submitted that the CD (M/s Bhagwan Motors Pvt. Ltd.), was admitted to the CIRP by the Adjudicating Authority vide order dated 21.06.2019. The VE Commercial Vehicles Limited (Respondent No. 1 in the IA No. 130 (IND) of 2020) has made unauthorised adjustments to the accounts of the CD after the initiation of CIRP, violating the moratorium imposed under Section 14 of the IB Code, 2016. Specifically, by way of a Journal Voucher dated 01.08.2019, the VE Commercial Vehicles Limited debited an amount of Rs. 49,15,286 to the account of the CD, which was not permissible under law as the moratorium prohibits any recovery or adjustment during the CIRP period. Further, on 20.03.2020, the VE

Commercial Vehicles Limited deposited an amount of Rs. 26,26,584/- with the VAT/GST department and informed the RP about the same on 21.07.2020 through email. These actions constitute a clear violation of the moratorium and demonstrate disregard for the court's orders and the integrity of the insolvency resolution process.

6. The Adjudicating Authority had, by order dated 01.09.2023, directed the Respondent/The Superintendent CGST & CEX to refund the amount to the CD represented by the RP within two weeks. The relevant para of the said order is below:

7. We have heard the learned counsel, resolution professional, and learned PCS appearing for the parties and have perused the documents available on record. It is noted that in both applications (IA/130/MP/2020 and IA/131/MP/2020) the resolution professional has claimed a sum of Rs 29,08,415/- and Rs 29,84,217/- respectively. A demand notice dated 19.01.2020 claiming the said amount was sent by the resolution professional to respondent no. 1 in both applications. Further, it was averred by the resolution professional that a certain amount that was due and payable to the corporate debtor by respondent no. 1 in both applications was paid to the VAT/GST department on behalf of the corporate debtor.

In reply, respondent no. 1 in both applications has submitted that the said transaction was made on the basis of a notice dated 03.07.2019 received from respondent no. 2, i.e. VAT/GST department.

8. The Ministry of Finance (Department of Revenue, Central Board, of Indirect Taxes and Customs GST policy wing) in its Circular No. 134/04/2020-GST dated 23.03.2020 has also clarified with regards to the dues pertaining to the pre-CIRP period that in accordance with the provisions of the Code on the issue, no coercive action can be taken against the corporate debtor with respect to the dues for period prior to insolvency commencement date. Further, the dues of the period prior to the commencement of the CIRP will be treated as 'operational debt' and claims may be filed by the proper officer before the Adjudicating Authority.

Admittedly, the corporate debtor has supplied goods to respondent no. 1 in both applications, and the corporate debtor has to recover a certain amount from those respondent no. 1 in both applications. The reply as given by respondent no. 1 in both applications is quite misplaced. Rather this is a case where the VAT/GST department had recovered the amount of tax payable by the corporate debtor as per notice dated 03.07.2019, from respondent no. 1 in both applications. The CIRP of the corporate debtor was initiated vide order dated 21.06.2019. Thus, the recovery of the tax amount has been made by the VAT/GST department during the period of moratorium only. As such the VAT/GST authorities are liable to refund the amount collected during moratorium period.

“Accordingly, respondent no 2 in both applications is directed to refund the amount to the corporate debtor (represented by the resolution professional) within 2 weeks from the date of passing of this order.”

9. With these directions, IA/130/MP/2020 and IA/131/MP/2020 in TP/125/MP/2019 [(CP(IB) / 159) / 2018] are disposed of.

7. The NCLAT in ***Commissioner of State Tax Department vs Ramchandra Dallaram Chaudhary Liquidator of M/s Anil Ltd. Comp. App. (AT) (Ins) No. 34 of 2024 & I.A. No. 105, 106, 990 of 2024*** held that the Tax Department during the moratorium period could determine the tax, interest, fine or any penalty which is due, however, the department could not enforce his claims for recovery or levy of interest on the tax due during the period of Moratorium.

8. The Hon'ble Supreme Court in the matter of ***Sundaresh Bhatt, Liquidator of ABG Shipyard Versus Central Board of Indirect Taxes and Customs*** wherein it was held as follows:

“That the authorities can only take steps to determine the tax, interest, fines or any penalty which is due. However, the authority cannot enforce a claim for 8 IA/5523/2021 In IB-2924/ND/2019 recovery or levy of interest on the tax due during the period of moratorium.”

9. It is observed that a review application was filed by the Superintendent, CGST & CEX (Respondent) seeking review of the order dated 01.09.2023 and setting aside the direction to refund the amount to the Corporate Debtor. However, the said Review Application No. 1 (MP) of 2023 in order dated

16.09.2025 was dismissed for want of prosecution by this Adjudicating Authority.

10. Despite clear directions issued by this Adjudicating Authority, the Respondent has failed to pay the amount to the CD that was recovered during the moratorium. The initiation of contempt proceedings will serve a dual purpose: firstly, to uphold the majesty of the law by punishing the contemnor for wilful disobedience and secondly, to coerce the contemnor into compliance with the law and the orders of this Adjudicating Authority. Such measures are necessary to maintain the authority and dignity of this Adjudicating Authority and ensure adherence to its directions.

11. Under the Companies Act, 2013, the power of contempt has been specifically contained under Section 425 of the Companies Act, 2013, which reads as under: -

“425. Power to punish for contempt – The Tribunal and the Appellate Tribunal shall have the same jurisdiction, powers and authority in the respect of contempt of themselves as the High Court has and may exercise, for the purpose, the powers under the provisions of the Contempt of Courts Act, 1971 (70 of 1971), which shall have the effect subject to modifications that –

a) the reference therein to a High Court shall be construed as including a reference to the Tribunal and the Appellate Tribunal; and

b) the reference to Advocate-General in section 15 of the said Act shall be construed as a reference to such Law Officers as the Central Government may, specify in this behalf”.

12. On reading of the provisions contained under Section 425, in fact, the powers of drawing a contempt proceeding which have been granted to the Tribunal and the Appellate Tribunal as created under the Companies Act, 2013 where the jurisdiction of the Tribunal & Appellate Tribunal happens to be similar to that of the Hon’ble High Court as it may be in the exercise of its powers under the provision of the Contempt of Courts Act, 1971.

13. The power to enforce compliance and maintain the authority of the Tribunal has been consistently upheld by the National Company Law Appellate Tribunal (NCLAT) in various judgments given below:

a) In Shailendra Singh v. Nisha Malpani (2021) ibclaw.in 528 NCLAT, the NCLAT affirmed the Tribunal’s jurisdiction to initiate contempt proceedings to uphold the sanctity of its orders and ensure compliance by the parties.

b) Similarly, in Mahesh Kumar Panwar v. M/s Mega Soft Infrastructure Pvt. Ltd. and Ors. (2019) ibclaw.in 331 NCLAT, the appellate tribunal emphasised that wilful violations of CIRP-related orders cannot be tolerated and must be met with appropriate penal consequences.

c) Further, in C. Vinod Hayagriv and Ors. v. C. Ganesh Narayan and Ors., Contempt Case (AT) No. 13 of 2023 in Company Appeal (AT) No. 65 of 2019, decided on 9th August 2023, the NCLAT reiterated that contempt jurisdiction is integral to enforcing the moratorium and other orders during the insolvency resolution process, thereby preserving the integrity of the proceedings.

14. These decisions collectively establish that the power to punish contempt is essential to uphold the authority of this Adjudicating Authority, ensure compliance with its orders, and safeguard the interests of the corporate insolvency framework under the IB Code, 2016.

15. We have observed that a liquidation order was passed by the Adjudicating Authority on 01.09.2023 under Section 33(2) of the IB Code, 2016, appointing the Applicant as Liquidator. In compliance, the Liquidator communicated the order to the Respondent via email and reminder letters, and personally followed up with telephonic discussions. Despite this, the Respondent failed to appear before this Authority. Therefore, by order dated 16.09.2025, the Respondent is proceeded against ex parte. Details of intimation issued to the Respondent are given below:

Date	Notice issued
09.09.2023	A letter issued by the liquidator to the department for the recovery of the amount due.
12.09.2023	Email correspondence was served upon the respondent for the recovery of the amount due.
06.11.2023	A letter issued by the Liquidator to the department as a reminder for the recovery of the amount due.
20.01.2024	Proof of Advance Service vide email.
26.02.2024	Affidavit has been filed by the Applicant in compliance with the order dated 02.02.2024, whereby this Adjudicating Authority had directed issuance of notice once again to the Respondent. Proof of service evidencing dispatch of notice through Email dated 12.02.2024 and through Speed Post dated 12.02.2024, duly delivered on 13.02.2024, are annexed as <u>ANNEXURES B AND C</u> to the said Affidavit.

16. Such deliberate non-compliance reflects an intentional disregard/wilful disobedience of the Adjudicating Authority order, undermining the authority of this Adjudicating Authority and causing obstruction in the proper completion of the liquidation proceedings.

17. Section 2(a) of the Contempt of Courts Act, 1971 define "contempt of court" to include civil contempt or criminal contempt and Section 2(b) of the Contempt of Courts Act, 1971 define civil contempt means the wilful

disobedience to any judgment, decree, direction, order, writ, or other process of the court, or a wilful breach of an undertaking given to the court. Accordingly, non-compliance with the orders of this Authority constitutes civil contempt and to establish civil contempt, two essential elements must be proved:

- (i) There must be disobedience of any judgment, decree, directions, orders, or other process of this Authority; and*
- (ii) Such disobedience or breach must be wilful, deliberate, and intentional.*

18. The Supreme Court's judgment in ***Anil Ratan Sarkar And Others v. Hirak Ghosh And Others, AIR 2002 SC 1405*** serves as a pivotal reinforcement of judicial authority and the imperative of adhering to court orders. By meticulously dissecting the State Government's actions and highlighting consistent non-compliance, the Court not only safeguarded the rights of the petitioners but also set a stern warning against the misuse or neglect of judicial mandates. This case underscores the judiciary's role in ensuring administrative fairness and the rule of law, fostering a legal environment where justice is both delivered and respected.

19. Similarly, in ***Indian Airports Employees Union v. Ranjan Chatterjee, (1999) 2 SCC 537***, it was held that mere disobedience of a court's order does

not constitute civil contempt unless it is wilful. The Supreme Court in **S.S. Roy v. State of Orissa, AIR 1960 SC 190**, further reiterated that to attract civil contempt the disobedience must be conscious, deliberate, and intentional. Where the violation is due to genuine misunderstanding or misinterpretation of executive instructions, as observed in **Ashok Kumar Singh and Ors. v. State of Bihar and Ors., 1992 CriLJ 284**, it shall not constitute civil contempt. Therefore, a mere technical breach or inadvertence cannot be treated as contempt unless it is accompanied by wilful disobedience of the court's order.

20. We have also observed the affidavit filed by the applicant pursuant to the order dated 18.11.2025, clarifies that two separate IAs were instituted, IA 130 (MP) of 2020 against the Superintendent, CGST & CEX, and IA 131 (MP) of 2020 against the Commercial Tax Officer. The appeal before the Hon'ble NCLAT challenged only the order in IA 131 (MP) of 2020 concerning the Commercial Tax Department, which stood set aside vide NCLAT order dated 05.12.2024. IA 130 (MP) of 2020, against which the present contempt application is preferred, remains unchallenged, unappealed, and unstayed by any superior appellate authority.

21. As per the IBC, 2016, the objective is to balance the interests of all stakeholders with a focus on maximisation of asset value and time-bound

resolution. Importantly, government recovery including those claimed by the CGST Department, do not enjoy preferential treatment over financial or operational creditors. The Code, specifically under Section 53, places government dues lower in the priority waterfall, below secured creditors and operational creditors, ensuring that the rights of other creditors, including the corporate debtor's rehabilitation, are not prejudiced. This legislative framework intends to prevent government dues from overriding the orderly and equitable distribution of the corporate debtor's assets. Therefore, the wilful delay or non-compliance by the CGST Department in refunding amounts as directed by this Adjudicating Authority undermines the legislative intent of the IBC,2016 and impedes the liquidation process. Such conduct amounts to a blatant disregard of this Adjudicating Authority's order and calls for strict contempt proceedings against the Respondent to uphold the rule of law and ensure effective enforcement of the Adjudicating Authority's directions.

22. We are pained to observe that the Respondent/Contemnor is a responsible Government Officer who must respect the law and the order of the Adjudicating Authority, more than any common man. Still, we have found that the Respondent/Contemnor has not only disregarded the order of the court but also didn't appear in this contempt petition even after given

sufficient opportunities.

ORDER

23. As such, we are left with no option except to hold the Respondent/Superintendent CGST & CEX guilty of contempt so as to maintain the dignity of this Adjudicating Authority and majesty of law.

24. Accordingly, before punishing the contemnor, it is in the interest of justice that the contemnor be heard on the quantum of sentence. Accordingly, notice be issued to the respondent for 10.02.2026.

25. Hereby, we direct the Registry that notice be served to the Respondent/Contemnor with all possible modes.

Sd/-

**MAN MOHAN GUPTA
(MEMBER TECHNICAL)**

Sd/-

**BRAJENDRA MANI TRIPATHI
(MEMBER JUDICIAL)**

Harsh LRA