



**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

ORDER SHEET OF THE HEARING ON 4th JULY 2025

IA(IBC)/84/GB/2023

IA(IBC)/155/GB/2024

In CP(IB)/23/GB/2022 In CP(IB)/1290/KB/2018

**Present: 1. Hon'ble Member (Judicial), Shri Rammurti Kushawaha
2. Hon'ble Member (Technical), Shri Yogendra Kumar Singh**

In the Matter of	Punjab National Bank Vs JAS Infrastructure & Power Limited
Under Section	U/s 7 of IBC, 2016

Appearances (via video conferencing/physically)

For Petitioner (s) : Mr. S. Mandal, Adv. for Liquidator

For Respondent (s) : None

ORDER

IA(IBC)/84/GB/2023 and IA(IBC)/155/GB/2024

Order pronounced in open court *vide* separate sheets.

Sd/-
Yogendra Kumar Singh
Member (Technical)

Sd/-
Rammurti Kushawaha
Member (Judicial)



**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

**IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018**

*Application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Regulation
2A of the IBBI (Liquidation Process) Regulations, 2016.*

In the matter of:

Kannan Tiruvengadam, liquidator of the JAS Infrastructure and Power Limited and having his registered office at Netaji Subhas Villa, Flat No. 3C, 3rd Floor, 18 Karunamoyee Ghat Road, Near Dharapara, Tollygunge, Kolkata- 700082;

...Applicant/Liquidator

-Versus-

Assets Care & Reconstruction Enterprise Limited, having an office at 2nd Floor, Mohan Dev Building, 13, Tolstoy Marg, New Delhi - 110001;

...Respondent No. 1

-And-

Punjab National Bank, having an office at Zonal Sastra Centre, Kolkata, United Tower, 3rd Floor, 11, Hemanta Basu Sarani, Dalhousie, Kolkata- 700001;

...Respondent No. 2

-And-

UCO Bank, having an office at Flagship Corporate Branch Mafatlal Centre, 1st Floor, Nariman Point Mumbai - 400021;

...Respondent No. 3

-And-

Power Finance Corporation Limited, having an office at 'Urjanidhi', I, Barakhamba Lane, Connaught Place, New Delhi-II 0001;

...Respondent No. 4



NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018

-And-

REC Limited, having an office at Core 4, SCOPE Complex, 7 Lodi Road, New Delhi – 110003;

...Respondent No. 5

-And-

State Bank of India, having an office at SARG Commercial-III, 112 & 115, Tulsiani Chambers, 1st Floor, Free Press Journal Marg, Nariman Point, Mumbai 400021;

...Respondent No. 6

-And-

India Infrastructure and Finance Company Limited, having an office at 5th Floor Block C, Plate A & B, NBCC Tower, East Kidwai Nagar, New Delhi - 110023;

...Respondent No. 7

-And-

Bank of India, having an office at M.D.I. Building, First Floor, 28, S. V. Road, Andheri (West), Mumbai - 400058;

...Respondent No. 8

Coram:

Shri Rammurti Kushawaha : Member (Judicial)

Shri Yogendra Kumar Singh : Member (Technical)

Appearances (through video conferencing):

For Petitioner : Mr. Rishav Banerjee (Adv.), Mr. S. Mandal (Adv.)

For Respondent : Mr. (Adv.) R.P. Agarwal (Adv.)

Order pronounced on: 04.07.2025



NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018

ORDER

1. The present Interlocutory Application is filed before this Tribunal under the provisions of Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (“Code”) read with Regulation 2A of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (“Liquidation Regulations”). The Applicant, in his capacity as the Liquidator (“Applicant”) of **JAS Infrastructure & Power Limited** (“Corporate Debtor”), seeks the following substantive reliefs:
 - a) *Pass an order directing the Respondents that reasonable remuneration of INR 2,50,000 per month calculated from the date of appointment of the Applicant as liquidator of the Corporate Debtor be paid to the Applicant for services rendered by him as liquidator of the Corporate Debtor till the date of passing of the order;*
 - b) *Pass an order directing the Respondents to continue paying reasonable remuneration of INR 2,50,000 per month to the Applicant till such time that the liquidation process of the Corporate Debtor is completed;*
 - c) *Pass any such further orders as this Hon'ble Tribunal may deem fit and proper.*
2. Submissions by the Applicant:
 - 2.1. The Applicant has acted within the four corners of the Code and taken steps for the beneficial liquidation of Corporate Debtor.
 - 2.2. The Corporate Insolvency Resolution Process (“CIRP”) of the Corporate Debtor commenced by an order dated 16.10.2019 passed by the Hon'ble Tribunal at Kolkata. Subsequently, by an order dated 17.07.2020, the same Bench directed the commencement of liquidation process of the Corporate Debtor while appointing the Applicant as the liquidator.
 - 2.3. It is pertinent to state that the Committee of Creditors (“CoC”) had chosen one Mr Sajjan Kumar Dokania to act as the Liquidator. However, the Hon'ble Tribunal appointed the Applicant as the Liquidator considering his seniority and competence, as recorded in the order dated 17.07.2020.



NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018

-
- 2.4. The Hon'ble NCLAT, *vide* interim order dated 10.09.2020 in Company Appeal (AT) (Ins) No. 770 of 2020 filed by the erstwhile promoter of the Corporate Debtor, restrained sale of assets. The said appeal was dismissed on 11.10.2022, vacating the restraint
- 2.5. Post-dismissal of the appeal, the Applicant has discharged his duties diligently and filed regular quarterly progress reports before this Tribunal, managing the liquidation of the Corporate Debtor for nearly three years through numerous challenges, deploying a dedicated team and ensuring compliance with the Code. However, the Applicant remains unpaid, through no fault of his own.
- 2.6. In consultation with the Stakeholders Consultation Committee ("SCC"), the Applicant discussed the sale strategy of the Corporate Debtor in the 4th SCC meeting held on 19.10.2022. Accordingly, public sale notices were issued on 17.11.2022 and 30.12.2022 for sale of the Corporate Debtor as a going concern.
- 2.7. The Applicant has faced certain challenges in managing the assets of the Corporate Debtor which are mentioned herein below:
- a) The Corporate Debtor's project remained stalled since September 2012, and the buildings on the industrial land are completed up to the foundation level and dilapidated.
 - b) The land parcels are scattered across different villages, making it challenging to manage and demarcate them.
 - c) Local tribal populations, to whom employment was promised in exchange for land, have encroached upon the land and have posed threats to the Applicant, necessitating the involvement of local administration for assistance and safety.
 - d) Ambiguity regarding government acquisition of certain parcels, owing to the unavailability of reliable records. The Applicant proposes to approach this



NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018

Tribunal for necessary directions to identify and demarcate the assets for sale under the Code.

- 2.8. Following the publication of sale notices, an ex-employee of the Corporate Debtor informed the Applicant that all the assets stand attached by the Enforcement Directorate under the provisions of the Prevention of Money Laundering Act, 2002 (“PMLA”).
- 2.9. In the last week of December, 2022, the Applicant confirmed that the Enforcement Directorate had attached the assets *via* confirmation dated 04.12.2018, *i.e.* before commencement of CIRP. Clarifications were sought by the Applicant *via* email dated 18.01.2023 to which no responses were received.
- 2.10. The issue was also discussed with the SCC in the fifth meeting held on 07.08.2023, where the Applicant informed the members that he is in the process of filing a writ petition before the Hon’ble High Court at Calcutta in this regard.
- 2.11. Accordingly, the Applicant filed WPA 2343 of 2023 before the Hon’ble High Court at Calcutta under Article 226 of the Constitution of India, seeking *inter alia* permission to sell the assets of the Corporate Debtor under the Code and for de-attachment of the said properties. The Applicant submits that such steps are in the interest of the SCC creditors. The Writ Petition (WPA No. 2343 of 2023) was dismissed by order dated 28.06.2023, with personal observations made against the Applicant, which were not pleaded or argued by the parties.
- 2.12. Accordingly, an appeal (MAT No. 1359 of 2023) was filed challenging the order dated 28.06.2023 before a Division Bench headed by the Hon’ble Chief Justice of the Hon’ble High Court at Calcutta. The said appeal is currently pending consideration qua the questions of law involved. However, by an order dated 12.10.2023, the Hon’ble Division Bench has expunged the observations made in paragraph nos. 29, 30, 32 and other adverse portions of the said order which were against the interest of the Applicant in his personal capacity.



**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

**IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018**

- 2.13. The Respondent No. 1 also filed an appeal against the Deputy Director, Directorate of Enforcement & Ors., Nagpur before the Appellate Tribunal under SAFEMA at New Delhi being FPA-PMLA2897/NGP/2019, which concerns the attachment of assets of the Corporate Debtor. By an order dated 15.01.2024, the appellant was directed to make the Applicant a party to the proceeding. However, the Respondent failed to do so. The said proceedings were also the subject matter of discussion in the 7th meeting of the SCC held on 11.03.2024.
- 2.14. The Applicant has also filed an application under Section 66 of the Code (IA No. 56/GB/2022, earlier IA No. 220/KB/2021) impugning transactions amounting to INR 3321.72 Crores. The matter was transferred to this Tribunal due to recusals by two different benches and is currently pending consideration before this Tribunal. The Applicant is defending multiple applications filed by the promoters to delay the Section 66 proceedings.
- 2.15. Further, the filing of the instant IA by the Liquidator seeking contribution towards liquidation costs and payment of his remuneration were duly discussed during SCC meetings on 19.10.2022, 07.08.2023, 28.11.2023, 11.03.2024, 20.08.2024, and 21.01.2025. The SCC was regularly apprised of these proceedings and did not raise any objection to the minutes.
- 2.16. Additionally, the Applicant has initiated the following proceedings in furtherance of his duties:

Sl. No.	Forum	Matter No.	Cause Title	Dates on which matter has been taken up
1.	NCLT	IA/56/2022	<i>CA Kannan Tiruvengadam Vs Manoj Jayaswal & Others</i>	21.02.2025
2.	High Court at Calcutta	WPA No. 2343 of 2023	<i>Kannan Tiruvengadam Vs Union of India & Ors</i>	12.10.2023 and 4.05.2024



**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018

		MAT No. 1359 of 2023		
--	--	-------------------------	--	--

2.17. The Applicant is also defending the Corporate Debtor in various proceedings, including:

Sl. No.	Forum	Matter No.	Cause Title	Date on which matter was last taken up
1.	NCLT	IA No. 30/GB/2023	<i>Bishal Jayaswal Vs Kannan Tiruvengadam</i>	21.02.2025
2.	NCLT	IA No. 31/GB/2023	<i>Bishal Jayaswal Vs Kannan Tiruvengadam</i>	21.02.2025
3.	NCLT	IA No. 32/GB/2023	<i>Manoj Jayaswal Vs Kannan Tiruvengadam</i>	21.02.2025
4.	NCLT	IA No. 33/GB/2023	<i>Manoj Jayaswal Vs Kannan Tiruvengadam</i>	21.02.2025
5.	NCLT	IA No. 114/GB/2023	<i>Manoj Jayaswal Vs Kannan Tiruvengadam</i>	21.02.2025
6.	CBI Special Court (New Delhi)	Cr. Case No. 16/2019	<i>Directorate of Enforcement Vs Jas Infrastructure Capital Pvt Ltd</i>	01.02.2025
7.	CBI Special Court (New Delhi)	Cr. Case No. 297/2019	<i>CBI Vs Jas Infrastructure Capital Pvt Ltd</i>	17.02.2025
8.	CBI Special Court (Kolkata)	ML/10/2021	<i>Abhijeet Projects. Ltd. & Ors.</i>	22.07.2024

2.18. It is admitted that the CoC failed to fix the fee payable to the Applicant in terms of Regulation 39D of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations") at the time of approving liquidation, as required. Consequently, in accordance with Regulation 4(1A) of the Liquidation Regulations, the fee of the Liquidator ought to have been fixed by the SCC in its first meeting, which was not done.



NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018

2.19. Regulation 4(2) of the Liquidation Regulations prescribes that where the fees payable to the Applicant has not been decided as envisaged under Regulation 39D of the CIRP Regulations or Regulation 4(1A) of the Liquidation Regulations, the Applicant shall be entitled to:

- (i) a fee at the same rate as the RP was entitled to during the CIRP for the period of compromise or arrangement under section 230 of the Companies Act, 2013; and
- (ii) as a percentage of the amount realised net of other liquidation costs, and of the amount distributed, for the balance period of liquidation as prescribed.

2.20. The said Regulation 4(2) is set out below:

“(2) In cases other than those covered under sub-regulation (1) and (1A), the liquidator shall be entitled to a fee-

(a) at the same rate as the resolution professional was entitled to during the corporate insolvency resolution process, for the period of compromise or arrangement under section 230 of the Companies Act, 2013; and

(b) as a percentage of the amount realised net of other liquidation costs, and of the amount distributed, for the balance period of liquidation, as under...”

Thus, the contention of the SCC that the Applicant is only entitled to a percentage amount and that only clause (b) applies is legally and fundamentally flawed. SCC members are conveniently omitting the word “and” between Regulation 4(2)(a) and 4(2)(b).

2.21. The RP was being paid a sum of INR 7,00,000/- per month during CIRP. The total admitted claims in the CIRP/ liquidation process of the Corporate Debtor being INR 5892.60 Crores, the minimum fixed fee which could have been charged by the RP for the assignment was at least INR 4,00,000/- (Rupees Four Lacs) per month as per Schedule II of the CIRP Regulations. By virtue of Regulation 4(2) of



**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

**IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018**

-
- the Liquidation Regulations, the Applicant is entitled to charge a sum of at least INR 4,00,000/- per month for acting as the liquidator of the Corporate Debtor.
- 2.22. Considering the exceptional circumstances, the Applicant has sought a reduced monthly fee of Rs. 2,50,000/- from the liquidation commencement date. This request has been consistently opposed by the SCC. It is humbly submitted that if the SCC is unwilling to approve the requested fee, this Tribunal may be pleased to replace the Applicant.
- 2.23. The Applicant has already offered to resign as the Liquidator of the Corporate Debtor on two separate occasions as recorded in the minutes of the meetings of the SCC dated 11.03.2024 and 21.01.2025. However, the SCC has rejected the Applicant's proposal to resign from the assignment.
- 2.24. If the Applicant was indeed against the interest of the creditors and was not apprising the creditors of crucial events, the SCC has been clothed with adequate power to remove the Applicant. The allegations/ contentions of the Respondents are baseless and have been raised as an afterthought to not release the professional fees of the Applicant, contrary to the intention of the Code and the Liquidation Regulations that the Applicant will work free of cost.
- 2.25. The Applicant had also appointed valuers registered with IBBI in order to conduct fresh valuation of the Corporate Debtor in terms of Regulation 35(2) of the Liquidation Regulations.
- 2.26. Since the transaction audit/ forensic audit exercise which was commissioned by the erstwhile RP remained incomplete, the Applicant engaged a new forensic auditor to identify potential financial irregularities involving the erstwhile management.
- 2.27. In view of the aforesaid circumstances, the Applicant humbly prays that this Tribunal be pleased to issue necessary directions. No prejudice shall be caused to



**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

**IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018**

anyone if the orders prayed for herein are passed by this Tribunal. This Application is made bona fide and for the ends of justice.

3. Submissions by the Respondent nos. 1, 2, 3, 4, and 6:

- 3.1. The contents of the reply to the IA (IB) No. 84/GB/2023 may please be treated as part of the present reply also and the same are not being repeated herein for the sake of brevity.
- 3.2. There is no provision in the Code for monthly remuneration of the Liquidator. As per Regulation 4 of the Liquidation Regulations, as applicable on the liquidation commencement date, the liquidator's fee is either fixed by the CoC in its last meeting or, failing that by the SCC in its first meeting. In the absence thereof, the Applicant shall be entitled to fee as a percentage of the amount realized net of other liquidation cost and of the amount distributed as per table provided in the said Regulation 4.
- 3.3. In the present case, since no fee was fixed by the CoC or the SCC, the Applicant is only entitled to receive the fee as a percentage of the amount realized as per the table provided in applicable Regulation. Accordingly, at this stage, the Applicant's claim for monthly remuneration is untenable and liable to be rejected.
- 3.4. Further, Regulation 34B(2), applicable only to RP during CIRP, does not apply to Liquidators. The RP's remuneration is time-based, while the Liquidator's fee is performance-based and contingent upon asset realization and distribution under Regulation 4.
- 3.5. The assets of the Corporate Debtor has been provisionally attached by the Enforcement Directorate under Section 5 of PMLA on 12.06.2018, such attachment was confirmed by the adjudicating authority *vide* order dated 04.12.2018. In view of the same, the Applicant is not in a position to effect the sale



**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

**IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018**

of the assets of the Corporate Debtor until the attachment order is revoked by Enforcement Directorate or a competent court of law allows.

- 3.6. The Applicant filed WPA 2343/2023 before Hon'ble Calcutta High Court seeking relief in this regard, which was dismissed on 28.06.2023. An appeal preferred against the said order is still pending adjudication in the Hon'ble Calcutta High Court.
- 3.7. There is no provision in the Code to pay monthly remuneration of the Applicant. The Applicant reliance on CIRP Regulations and IBBI (Insolvency Professionals) Regulations, 2016 which provide that in IRP conducting CIRP of a Corporate Debtor where the total value of admitted claims exceeds INR 2,500 crores is entitled to fee of INR 4,00,000.00/- per month.
- 3.8. It is submitted that the aforesaid provision is applicable during the CIRP stage of the Corporate Debtor and that there is no corresponding provision in Liquidation Regulations regarding payment of fee to the Liquidator. The fee of the Liquidator is governed by Regulation 4 of Liquidation Regulations read with Section 34 (9) and section 53 of the Code. As per regulation 4 of Liquidation Regulations, the Applicant is entitled for a fee depending on the amount realised net of other Liquidation costs and as per Section 34 (9) read with Section 53 (3) of the Code, the fee of the Applicant is paid from the proceeds of the liquidation estate only. It is not the liability of the Financial Creditors to pay monthly remuneration to the Applicant out of their own pocket.
- 3.9. Since the attachment of the assets of the Corporate Debtor remain under attachment for an indefinite period and prevents the Applicant from taking necessary steps for disposal of the liquidation estate, the Financial Creditors cannot be saddled with a liability for paying monthly remuneration to the Applicant out of their own resources during such time.



NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018

-
- 3.10. Owing to the stay of liquidation proceedings by the Hon'ble NCLAT in Appeal No. 770/2020, the Applicant resumed duties only after the said Appeal was dismissed on 11.10.2022, and published the first Sale Notice on 17.11.2022. Hence, the Applicant has claimed his remuneration with effect from October, 2022.
- 3.11. While the Applicant raised the issue of reasonable remuneration before the SCC, the SCC was not bound to approve the same, as there is no provision for payment of monthly remuneration to the Liquidator under the Code.
- 3.12. The Applicant, has no substantive work to do for the Liquidation, except attending to some matters pending in courts. The expenses incurred therein are part of liquidation cost. There is a need to find some way, in accordance with law, to avoid unproductive expenditure.
- 3.13. The Applicant's reliance on Regulation 4(2)(a) of the Liquidation Regulations is misplaced. Regulation 4(2)(a) is applicable only during compromise or arrangement under section 230 of Companies Act, 2013 for a maximum period of ninety days from the order of liquidation under section 33, as provided in Regulation 2B of the Liquidation Regulations. There is no such compromise or arrangement in the present case, hence the question of invoking Regulation 4(2)(a) of the Liquidation Regulations in the present case does not arise. It becomes clear when Regulation 4(2)(a) of Liquidation Regulations is read with Regulation 39D (a) of CIRP Regulations. For ready reference Regulation 4(2)(a) of Liquidation Regulations and Regulation 39D (a) of CIRP Regulations being reproduced below:

"Regulation 39D of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

39D. While approving a resolution plan under section 30 or deciding to liquidate the corporate debtor under section 33, the committee may, in consultation with the resolution professional, fix the fee payable to the liquidator, if an order for liquidation is passed under section 33, for



NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018

- (a) *the period, if any, used for compromise or arrangement under section 230 of the Companies Act, 2013;*
- (b) *the period, if any, used for sale under clauses (e) and (f) of regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016; and*
- (c) *the balance period of liquidation.]*

Regulation-4 (1A) of the IBBI (Liquidation Process) Regulations, 2016

4. (1) The fee payable to the liquidator shall be in accordance with the decision taken by the committee of creditors under regulation 39D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

(1A) Where no fee has been fixed under sub-regulation (1), the consultation committee may fix the fee of the liquidator in its first meeting.

(2) In cases other than those covered under sub-regulation (1) 3 and (14), the liquidator shall be entitled to a fee-

- (a) at the same rate as the resolution professional was entitled to during the corporate insolvency resolution process, for the period of compromise or arrangement under section 230 of the Companies Act, 2013 (18 of 2013); and*
- (b) as a percentage of the amount realized net of other liquidation costs, and of the amount distributed, for the balance period of liquidation"*

- 3.14. The Applicant is not entitled for monthly remuneration of Rs. 2,50,000.00 per month or any other amount whatsoever.
- 3.15. The kind attention of this Tribunal is invited to Section 34(8) & (9) & Section 53 of the Code. Section 34(9) of the Code clearly provides that "*the fee for the conduct of liquidation proceedings under sub-section 8 shall be paid to the liquidator from the proceeds of the liquidation estate under section 53.*" In view of the same, the Applicant is entitled only for the fee as provided in Section 34(8) & (9) read with Regulation 4 of the



NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018

Liquidation Regulations and not for any remuneration on periodical basis over and above the above entitlement of fee.

- 3.16. It is also submitted that the Applicant has never consulted with the members of SCC before filing any suit/petition. The Hon'ble Calcutta High Court in Para 30 of the Judgment dated 28.06.2023 has noted as follows:

"30. It is interesting to note that not a single secured creditor is a party to the writ petition. Not a single creditor, bank or financial institution has come forward before this Court either to support the liquidator or to initiate any similar proceedings of their own. While the arguments of the liquidator, that the writ petition has been filed to give effect to the object and purpose of the Insolvency & Bankruptcy Code, 2016, are laudable, this Court is unable to countenance his bona fides. The liquidator suo motu need not have espoused the cause of the creditors. The Creditors have not lodged any claims. No such claims have been referred to or placed by the liquidator before this Court."

(Annexure-I/Page 57-69 of IA No.155/2024)

- 3.17. While it has been argued by the Applicant that these above observations were later expunged by the Hon'ble Division Bench of the Calcutta High Court, it is clear from the aforesaid that the Applicant is acting in an arbitrary manner. The Applicant seems to protect his interest so far fixation of Liquidator's Fees is concerned, which is contrary to the provisions of the Code/ Regulations.
- 3.18. It is submitted that every Liquidation process has its own challenges and it is the duty of the Applicant to resolve all issues transparently and in consultation with stakeholders and complete the Liquidation process. The Applicant is duty bound to consult/discuss with the members of SCC before filing any suit/petition.
- 3.19. In view of the aforesaid submissions, it is prayed to dismiss the present IA with cost as the same is absolutely devoid of any merit or substance.
4. Respondent no. 1 submits its response to the Written Submissions filed by the Applicant as follows:



**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

**IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018**

-
- 4.1. During the course of the arguments on 20.05.2025, the Ld. Counsel for the Applicant withdrew the prayer for payment for monthly remuneration as made in IA No.155 of 2024. In view of the same, IA No.155 of 2024 does not survive and is liable to be dismissed as not pressed.
- 4.2. In any case, as already explained in the response on behalf ACRE filed on 16.04.2025, there is no provision in the Code or in the Regulations for payment of remuneration on a monthly basis to the Applicant. As per Regulation 4 of Liquidation Regulations, Applicant is entitled only for his fee on percentage basis of the sale proceeds realised from the Liquidation Estate and the amount distributed and such fee is payable only subsequent to the realisation of the Liquidation Estate. Section 34(9) & Section 53(3) of the Code are relevant in this regard.
- 4.3. In the light of aforesaid facts and circumstances, it is respectfully submitted that the instant application filed by the Applicant may please be dismissed.
5. Heard the learned counsels for the parties and perused the available records. The present application has been filed by the Liquidator under the provisions of the Code and the Liquidation Regulations for seeking directions to the Respondents to pay a fixed remuneration of Rs. 2,50,000/- per month from the date of appointment of the Applicant as Liquidator until completion of the liquidation process.
6. The Applicant submits that the liquidation of the Corporate Debtor has been prolonged due to ongoing litigations, regulatory proceedings, and lack of cooperation by some stakeholders, and hence a reasonable monthly remuneration ought to be awarded for services rendered. The Applicant claims that the fixed monthly fee is justified and necessary to ensure continuity and accountability in the liquidation process.
7. On the other hand, the Respondents, major Financial Creditors of the Corporate Debtor, have opposed the application primarily on the grounds that:



NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018

-
- i. The proposed monthly fee was placed before the SCC but was not approved.
 - ii. In the JLM dated 29.09.2023, the Financial Creditors unanimously resolved that the Liquidator's fee shall be governed strictly by Regulation 4 of the Liquidation Regulations, in the absence of a fee fixed by the CoC or SCC.
 - iii. The CoC, during the CIRP, or the SCC did not fix any monthly or ad hoc remuneration for the Liquidator to continue in liquidation.
 8. The Respondents also submit that during the course of arguments on 20.05.2025, the Ld. Counsel for the Applicant made a submission indicating withdrawal of the prayer seeking monthly remuneration as raised in IA(IBC)/155/GB/2024. However, the said withdrawal is neither reflected in the daily order sheet nor supported by any formal written statement or application placed on record by the Applicant. In the absence of any express recording or formal acknowledgment of withdrawal, this Tribunal is constrained to adjudicate the said application on merits.
 9. The Tribunal notes that Regulation 4(2) of the Liquidation Process Regulations clearly stipulates that in the absence of a remuneration fixed by the CoC or SCC, the Liquidator shall be entitled to a fee based on the percentage of the amount realized and distributed, as per the slab prescribed in Regulation 4(2).
 10. Furthermore, the record indicates that the Applicant's request for a fixed monthly remuneration was placed before the SCC and JLM on multiple occasions but did not find approval from the stakeholders. It is well settled that the SCC serves an advisory role, but in financial matters affecting the liquidation estate and creditor recoveries, the concurrence of financial creditors carries significant weight.
 11. This Tribunal is of the considered view that once a specific mechanism for determination of the Liquidator's fee is laid down under the Regulations, any deviation from the same can only be permitted where there is an express resolution by the CoC or stakeholders in that regard. In the present case, no such resolution exists.



**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

**IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018**

-
12. In the absence of stakeholder approval and in light of the statutory provisions under Regulation 4, this Tribunal is not inclined to override the framework provided under the Code and Regulations, nor can it direct stakeholders to adopt a fixed-fee structure at variance with the existing mechanism.
13. Therefore, the prayer for fixation of a fixed monthly remuneration of Rs. 2,50,000/- to the Applicant/Liquidator from the date of his appointment till the date of this order is not sustainable, in view of Regulation 4 of the Liquidation Regulations, which stipulates that the remuneration of the Liquidator shall be:
- i. as fixed by the CoC before liquidation commencement; or
 - ii. in the absence of such fixation, in accordance with the percentage-based fee schedule provided under Regulation 4(2).
14. In the present case, since the CoC did not fix the Liquidator's remuneration at the time of recommending liquidation under Section 33 of the Code, as envisaged under Regulation 39D of the CIRP Regulations, and further, the SCC also failed to fix the fee in its first meeting as required under Regulation 4(1A) of the Liquidation Regulations, the Liquidator shall be entitled to remuneration strictly in terms of Regulation 4(2) of the Liquidation Regulations. Accordingly, the Liquidator's fee shall be calculated only as a percentage of the amount realised (net of other liquidation costs) and distributed during the liquidation process, and not by way of a fixed monthly fee.
15. Consequently, the prayer for direction to the Respondents to pay a monthly remuneration of Rs. 2,50,000/- with retrospective effect from the date of appointment till the present date, and for its continuation prospectively, is hereby rejected.
16. The Liquidator shall be entitled to claim fees strictly in accordance with:
- i. Regulation 4(2)(b) of the IBBI (Liquidation Process) Regulations, 2016, as a percentage of the amount realised net of other liquidation costs, and of the amount distributed;



NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

IA (IBC)/155/GB/2024
In CP(IB)/23/GB/2022
In CP(IB)/1290/KB/2018

-
- ii. Section 34(9) read with Section 53 of the Insolvency and Bankruptcy Code, 2016, payable only from the proceeds of the liquidation estate.
17. Accordingly, the present Application **IA (IBC)/155/GB/2024** is **dismissed** and disposed of in the above terms.
18. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsels.
19. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.
20. File be consigned to records.

Sd/-
Yogendra Kumar Singh
Member (Technical)

Sd/-
Rammurti Kushawaha
Member (Judicial)

Signed this on 4th day of July, 2025

Madhurita Tiwari (LRA)