Dues arising during the CIRP period cannot be classified as "insolvency resolution process costs" merely because they accrued during that period; and they must be directly related to the CIRP and expressly approved by the Committee of Creditors as mandated by Regulation 31(e) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

The **Mumbai Bench of the National Company Law Tribunal (NCLT)** in the case of **Kohinoor City Office Towers Industrial Estate vs Santanu T [IA No. 4520/2025] dated April 02, 2026**, has held that maintenance dues and property tax dues arising during the liquidation period, even in respect of assets that stood attached by the Enforcement Directorate (provided they have not been confiscated and continue to vest in the Corporate Debtor), directly serve the purpose of preservation and protection of the liquidation estate and bear the character of 'liquidation costs' within the meaning of Regulation 2(1)(ea) of the IBBI (Liquidation Process) Regulations, 2016.

Conversely, the Tribunal clarified that the dues arising during the CIRP period cannot be classified as "insolvency resolution process costs" merely because they accrued during that period; and they must be directly related to the CIRP and expressly approved by the Committee of Creditors as mandated by Regulation 31(e) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

The Tribunal observed that under Section 5(13) of the IBC read with Regulation 31(e) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, a cost qualifies as a CIRP cost only if it is directly related to the CIRP and has been approved by the Committee of Creditors (CoC). In the present case, the CoC had not approved the maintenance dues to be treated as CIRP costs, and the mere fact that the dues arose during the CIRP period is not determinative for them to be classified as CIRP costs.

The Tribunal noted that 'liquidation cost' under Regulation 2(1)(ea) of the IBBI (Liquidation Process) Regulations, 2016 includes costs incurred by the Liquidator for preserving and protecting the assets of the Corporate Debtor. Maintenance charges payable to a cooperative housing society are indispensable to the continued functionality and marketability of the units, as non-payment entitles the Society to restrict access to common amenities, thereby rendering the units inaccessible and commercially unviable.

This deterioration would prejudice the interests of all stakeholders by diminishing the realizable value of the asset and impairing the Liquidator's ability to present a clean and encumbrance-free asset for sale. Therefore, the payment of maintenance dues and property tax dues is a necessary incident of the preservation and protection of the assets, added the Tribunal.

On the effect of ED attachment under PMLA, the Tribunal observed that the subject properties had been exempted from confiscation under the PMLA. A provisional or confirmed attachment order under the PMLA freezes the property but does not extinguish the title of the owner or transfer it to the government; and only confiscation has the effect of vesting the property in the Union of India.

Since no confiscation took place, the properties retained their character as assets of the Corporate Debtor and became part of the liquidation estate under Section 36 of the IBC, and the Liquidator's obligation to preserve and protect these assets is not extinguished or suspended merely by reason of a PMLA attachment, added the Tribunal.

Lastly, the Tribunal held that property tax dues accruing prior to the liquidation commencement date cannot be accorded priority treatment as CIRP costs because they were not approved by the CoC. However, property tax dues accruing after the liquidation commencement date are treated mutatis mutandis to maintenance dues and qualify as liquidation costs.