

**If a secured creditor enforces its security interest under the SARFAESI Act without involving the liquidator, the amount realised does not form part of the liquidation estate**

The NCLT Ahmedabad, in the case of **Ramesh Kumar Totla vs State Bank of India [IA No. 1002 (AHM) 2025]** dated November 21, 2025, has held that when a secured creditor enforces its security interest under the SARFAESI Act without involving the liquidator, the amount realised does not form part of the liquidation estate.

While dealing with an application filed by the liquidator against the State Bank of India in the liquidation of Raghuvanshi Cotton Ginning and Pressing Private Limited, the NCLT held that this asset was not part of the liquidation estate and therefore would not be counted for the purpose of computation of fee even as per Regulation 4(2) of the IBBI (Liquidation Process) Regulations. According to the tribunal, only those assets over which the secured creditor has relinquished its security interest form part of the liquidation estate.

The NCLT observed that where the liquidation estate itself has no value, a fee linked to estate value cannot be claimed. Further, Regulation 4(1) gives primacy to the decision of the Committee of Creditors taken under Regulation 39D. Since SBI, as the sole member of the CoC, had already fixed the liquidator's fee at Rs 10 lakh for the first six months, that decision was binding and could not be overridden by invoking the slab-based fee mechanism.