

In the absence of prima facie material disclosing fraud, misconduct, mala fides, violation of statutory duties or professional misconduct, no direction could be issued to the IBBI for initiation of enquiry or disciplinary proceedings against the Liquidator, and in the absence of cogent evidence demonstrating illegality, fraud, misappropriation or improper claim, no interference is warranted with liquidation expenses or liquidator's fees

The **Kochi Bench of the National Company Law Tribunal (NCLT)** in the case of **Meenachil East Urban Co-operative Bank vs CA Mahalingam Suresh Kumar [IA(IBC)/1/KOB/2025] dated June 10, 2026**, has held that the Explanation inserted to Section 53(1)(b) of the Insolvency and Bankruptcy Code, 2016 is clarificatory in nature and applies to pending proceedings, and that the statutory scheme contemplates distribution to a secured creditor who has relinquished its security interest under Section 52 with reference to the value of the security interest relinquished, and not merely on the basis of the quantum of debt admitted. Accordingly, the contention that the liquidation proceeds ought to have been distributed solely on the basis of admitted claim amounts was rejected.

The Tribunal further held that in the absence of prima facie material disclosing fraud, misconduct, mala fides, violation of statutory duties or professional misconduct, no direction could be issued to the IBBI for initiation of enquiry or disciplinary proceedings against the Liquidator, and in the absence of cogent evidence demonstrating illegality, fraud, misappropriation or improper claim, no interference was warranted with liquidation expenses or liquidator's fees.

The Tribunal identified the principal issue as the manner in which liquidation proceeds are to be distributed amongst secured creditors who had relinquished their security interests under Section 52 of the Code. The Applicant argued that once such relinquishment took place, the realised value ought to have been distributed amongst secured creditors on a pro rata basis having regard to their admitted claims under Section 53(1)(b), whereas the Liquidator and Respondent No. 2 defended the distribution on the basis of the value of the respective security interests relinquished.

The Tribunal examined Section 53 as amended in 2026 and noted that the Explanation inserted to Section 53(1)(b) clarifies that where the value of the security interest relinquished by the secured creditor is less than the total debt owed, such creditor shall be a secured creditor only to the extent of the value of such security interest, and for the remaining debt shall be treated as an unsecured creditor. The Tribunal further observed that though the liquidation sale had taken place on August 22, 2024 and the amendment came into force only on May 26, 2026, the amendment was clarificatory in nature and, following the reasoning on retrospective applicability of clarificatory amendments, would apply to pending proceedings.

The Tribunal also observed that the allegations of corruption, fraud, misconduct and irregularities against the Liquidator were wholly unsupported by evidence and appeared to arise from the Applicant's dissatisfaction with the distribution methodology. Likewise, the allegations regarding excessive liquidation expenses and liquidator's fees were not supported by any cogent material showing illegality, fabrication, misappropriation or improper claim.

The valuation adopted by the Liquidator was based on reports of two independent registered valuers appointed in accordance with the Code and the regulations, and the Applicant, being a member of the SCC, had not objected to the valuation reports or methodology during the liquidation process. The Tribunal therefore held that the Applicant was estopped from challenging the valuation exercise at a belated stage in the absence of fraud, mala fides, arbitrariness or patent illegality.