NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1138 of 2026

IN THE MATTER OF:

State Bank of India **...Appellant**

Versus

Garden Court Distilleries Pvt. Ltd. & Anr. **...Respondents**

Present:

For Appellant	:	**Mr. Krishnendu Dutta, Sr. Advocate with Ms. Ekta Choudhary, Mr. Gaurav Raj Grover and Ms. Rushali Sikand, Advocates.**
For Respondents	:	**Mr. Sumant Batra, Sr. Advocate with Mr. Sarthak Bhandari, Ms. Riya Kaur Arora and Ms. Shreya Moondhra, Advocates for R-2 along with Mr. Akhil Ahuja, Liquidator in person.** **Mr. Abhijeet Sinha, Sr. Advocate with Mr. Himanshu Satija, Ms. ripul Surati, Mr. Anshul Rao and Mr. Suyash Shrivastava, Advocates for R-1.**

WITH

Company Appeal (AT) (Insolvency) No. 1145 of 2026

IN THE MATTER OF:

Garden Court Distilleries Private Limited **...Appellant**

Versus

Akhil Ahuja,
Liquidator of Honest Derivatives Ltd. & Anr. **...Respondents**

Present:

For Appellant	:	**Mr. Abhijeet Sinha, Sr. Advocate with Mr. Himanshu Satija, Ms. Ripul Swati, Mr. Anshul Rao and Rm. Suyash Shrivastava, Advocates.**
For Respondents	:	**Mr. Sumant Batra, Sr. Advocate with Mr. Sarthak Bhandari, Ms. Riya Kaur Arora and Ms.**

Shreya Moondhra, Advocates for R-2 along with Mr. Akhil Ahuja, Liquidator in person.

<u>O R D E R</u>
<u>(Hybrid Mode)</u>

<u>13.07.2026:</u> These appeals are against an impugned order dated *17.06.2026,* whereby an I.A. No.*678/2026* was dismissed.

2. It is the submission of the learned Sr. counsel for the appellant such I.A. was only to grant certain reliefs and permissions as said in paragraph 24 of the application, but instead of granting such reliefs, the impugned order was passed out and it casted some doubt on the valid sale affected by the liquidator *per* order dated *10.10.2025* passed by the adjudicating authority.

3. It is the submission of the learned Sr. counsel for the appellant, the CoC in its meeting held on 16.05.2025 had passed Resolution No. 5, whereby committee recommended the liquidator to first explore the sale of the corporate debtor *as a going concern* under clause (e) of Regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidator Process) Regulations, 2016. This Resolution No. 5 was upheld by the adjudicating authority *vide* its order dated *10.10.2025* and it held:-

> *"XXI. Further, in terms of Resolution No. 5, the CoC resolved that the Liquidator shall first explore the sale of the Corporate Debtor as a going concern under Regulation 32(e) of the IBBI (Liquidation Process) Regulations, 2016, in accordance with Regulation 39C of the IBBI (Resolution Process for Corporate Persons), Regulations 2016."*

4. It is submitted by the learned Sr. counsel for the appellant as also by the learned Sr. counsel for the liquidator, in the facts of the case, after the passing of the order by the adjudicating authority on *10.10.2025,* the liquidation by sale as a going concern *has already commenced* and as such the IBBI Notification dated *14.10.2025* cannot be put to use to cast a doubt on the sale affected *per* order dated *10.10.2025* of the adjudicating authority.

5. The learned Sr. counsel for the appellant as also the learned Sr. counsel for the liquidator both submits the observations made in paragraphs 9, 10, 18 & 19 as wholly incorrect, such paragraphs are as under:-

> ***"9.*** *The principal issue arising for consideration is whether the sale of the Corporate Debtor as a going concern can be said to have commenced prior to the coming into force of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Second Amendment) Regulations, 2025 notified on 14.10.2025, whereby clause (f) of Regulation 31A, clauses (e) and (f) of Regulation 32, and Regulations 32A of the IBBI (Liquidation Process) Regulations, 2016 came to be omitted. Paragraph 2 of the Notification dated 14th October 2025 provided that these amended Regulations shall apply prospectively, i.e. to cases where liquidation by sale as a going concern has not commenced.*
>
> ***10.*** *The case of the Applicant, the Liquidator and Respondent No. 2 is founded on the premise that the process of sale as a going concern commenced either upon passing of the resolution by the Committee of Creditors on 16.05.2025 or, at the latest, upon passing of the liquidation order dated 10.10.2025. We are unable to accept the said contention.*

> ***18.*** *The Applicant, having participated in the auction process initiated after the amendment came into force, cannot seek to derive a vested right on the basis of recommendations, deliberations or observations made prior to commencement of the actual sale process.*
>
> ***19.*** *In view of the foregoing discussion, we are of the considered opinion that the reliefs sought by the Applicant, being founded upon the premise that the sale of the Corporate Debtor as a going concern validly commenced prior to 14.10.2025, cannot be granted."*

6. It is the submission the notification does not come in the way of legal sale of the corporate debtor as a going concern as is noticed by the impugned order.

7. The learned Sr. counsel for the appellant also intend to file a note on the subject within one week from today.

8. The matter may now be listed on **27th July, 2026.**

[Justice Yogesh Khanna]
Officiating Chairperson

[Barun Mitra]
Member (Technical)

himanshu/md