

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-I
KOLKATA**

**I.A. (IB) NO. 27/KB/2026
In
C.P. (IB) NO. 557/KB/2017**

***An Application under Section 60(5) of the Insolvency and Bankruptcy
Code, 2016 read with Rule 11 of the NCLT Rules, 2016.***

IN THE MATTER OF:

Goutam Kumar Roy

...Operational Creditor

Versus

Dooteriah & Kalej Valley Tea Private Limited

...Corporate Debtor

And

IN THE MATTER OF:

**Mr. Sanjeev Jhunjunwala, Liquidator of Dooteriah & Kalej Valley Tea
Private Limited**

...Applicant

Date of Pronouncement: 10.06.2026

CORAM:

Smt. Bidisha Banerjee, Hon'ble Member (Judicial)

Cmde. Siddharth Mishra, Hon'ble Member (Technical)

APPEARANCE:

For the Liquidator:

Mr. Shaunak Mitra, Adv.

Ms. Shreya Choudhary, Adv.

Mr. Sanjeev Jhunjunwala, Liq.

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ORDER

Per: Siddharth Mishra, Member (Technical)

1. This court convened through physical/ hybrid mode.
2. The learned counsels for the Applicant were heard.
3. The instant Interlocutory Application No. 27/KB/2026 has been preferred by Mr.Sanjeev Jhunjunwala, Liquidator of Dooteriah & Kalej Valley Tea Estates Private Limited under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (herein refer to as “IBC”) read with Rule 11 of National Company Law Tribunal Rules, 2016 (herein refer to as “NCLT Rules”) *inter alia* seeking following reliefs:

a) *An order be passed permitting the Liquidator to sell the Corporate Debtor as a going concern on an as-is-where-is, as-is-what-is, and no-recourse basis;*

Alternatively to Prayer (a) of the Application, it is in the interest of justice that an order be passed by this Hon’ble Tribunal permitting the Liquidator to sell, as a whole, all the assets, rights and privileges of the Corporate Debtor, including but not limited to its possessory rights, legal and statutory rights, rights under contracts, licences, approvals, permissions and other instruments, as well as all such other rights as are or may become available in law to the Corporate Debtor, together with and including the juristic and legal entity of the Corporate Debtor itself and also the right to apply for and/or pursue for renewal of the lease of the tea garden in the of the Corporate Debtor an/or on behalf of the Corporate Debtor.

b) *The Liquidator is authorized to execute all deeds, documents, and conveyances necessary for completion of the going-concern sale.*

c) *Such further and/or other order or orders as this Hon’ble Tribunal may deem fit and proper.*

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4. Factual Matrix:

- 4.1 By an order dated 12.12.2017, the Corporate Debtor herein, was admitted to Corporate Insolvency Resolution Process (herein referred to as "CIRP") on the petition filed under Section 9 of IBC, 2016, by one Goutam Kumar Roy.
- 4.2 Thereafter, by an order dated 26.09.2018, the Resolution Plan submitted for the Corporate Debtor was approved by this Tribunal which was not implemented. Further, by an order dated 17.10.2025, the said order dated 26.09.2018 was recalled and the Corporate Debtor was ordered to be liquidated under Section 33 of IBC, 2016. By the said order dated 17.10.2025, the Applicant herein was appointed as the Liquidator of the Corporate Debtor.

5. Submission on behalf of the Applicant/Liquidator

- 5.1 Ld. Counsel submits that the Corporate Debtor operates three tea estates, namely Dooteriah, Kalej Valley and Peshok, along with two tea factories situated in Darjeeling, West Bengal. The estates are situated on leasehold land belonging to the State Government, the lease whereof has expired and renewal applications are pending.
- 5.2 It is submitted that during CIRP, the valuers did not assign any value to the land on account of expiry of the lease. The valuation reports further recorded that the tea bushes, being biological assets, are susceptible to deterioration and that the buildings, structures, plant and machinery are old and obsolete. The fair value and liquidation value of the Corporate Debtor were assessed at Rs. 26.59 crores and Rs. 3.8 crores respectively.
- 5.3 Ld. Counsel submits that in the 3rd Meeting of the Stakeholders' Consultation Committee held on 09.12.2025, the members observed that the factories were closed and tea leaves were being sold to other gardens for sustenance of workers. The SCC further noted that piecemeal sale of the assets would result in substantial

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erosion of value, whereas sale of the Corporate Debtor as a going concern would preserve the integrated tea operations and maximize value. It was also noted that the three gardens function in synergy, as only two units possess processing facilities and the produce from Peshok is processed therein. Accordingly, the SCC resolved that permission be sought from this Adjudicating Authority for sale of the Corporate Debtor as a going concern.

- 5.4 Reliance has been placed on Sections 35(1)(e) and 35(1)(f) of the Insolvency and Bankruptcy Code, 2016 to contend that the Liquidator is empowered to carry on the business of the Corporate Debtor for beneficial liquidation and to effect sale of its assets. It is submitted that preservation of the Corporate Debtor as a going concern and maximization of value are the primary objectives of the Code.
- 5.5 It is submitted that the Corporate Debtor is engaged in the integrated business of tea cultivation and manufacture, involving cultivation, plucking, withering, rolling, drying and packaging. Since the three tea estates function as a composite unit, sale of the Corporate Debtor as a going concern is stated to be imperative for preservation and value maximization. It is further submitted that the Hon'ble Supreme Court has repeatedly emphasized that maximization of value and preservation of the Corporate Debtor as a going concern constitute fundamental objectives of the Code.
- 5.6 It is further submitted that the Liquidation Regulations cannot override the mandate of beneficial liquidation contemplated under Section 35(1)(e) of the Code. According to the Liquidator, permission for sale as a going concern is necessary in order to preserve the Corporate Debtor and maximize the value of its assets.
- 5.7 The Liquidator has further contended that deletion of Regulations 32(e), 32(f) and 32A of the IBBI (Liquidation Process) Regulations, 2016 with effect from 14.10.2025 does not curtail the powers of

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this Adjudicating Authority under Section 60(5) of the Code to pass necessary orders in aid of liquidation. It is submitted that, in the peculiar facts of the present case, intervention of this Adjudicating Authority is necessary to give effect to the objectives of the Code, namely preservation of the Corporate Debtor as a going concern and value maximization. It is also submitted that the stakeholders themselves resolved to seek such permission from this Adjudicating Authority.

- 5.8 It is further submitted that even prior to insertion of Regulation 32A, sale of the Corporate Debtor as a going concern during liquidation had been permitted in appropriate cases.
- 5.9 Reliance has also been placed on the order dated 03.12.2025 passed by this Adjudicating Authority, Kolkata Bench-II, in IA (Liquidation) No. 06/KB/2025 in CP (IBC) No. 1380 of 2020 in the matter of Bhumya Tea Company Private Limited, wherein the Liquidator was directed to explore the possibility of sale of the Corporate Debtor as a going concern. It is submitted that the facts of the said case are similar to the present matter, as the concerned company was also engaged in tea estate operations and the approved resolution plan had not been implemented.
- 5.10 In the aforesaid circumstances, the Liquidator has prayed for permission to sell the Corporate Debtor as a going concern on an “as is where is”, “as is what is” and “without recourse” basis through the e-auction process, and for authorization to execute all necessary deeds, documents and conveyances for completion of such sale.

6. Supplementary Affidavit dated 30.01.2026

- 6.1 The present Supplementary Affidavit is being filed for seeking alternative prayer to prayer (a) as envisaged in I.A. (IBC) No. 27/KB/2026 filed under Section 60(5) of the Insolvency and

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Bankruptcy Code, 2016, seeking appropriate directions from this Hon'ble Tribunal.

- 6.2 Ld. Counsel submits that at the time of filing the application it was to the knowledge of liquidator that there were three tea gardens namely Dootoriah, Kalej & Peshok and lease of all had 1 expired. However Later liquidator has come across a letter dated 06.09.2018 from District magistrate that there are four tea gardens namely Dootoriah, Kalej, Simri Pani & Peshok. The lease of three Tea gardens had expired in 1987 and lease of Peshok is valid till 2035. However, the lease deed of Peshok is yet to be received from suspended board. The letter of District Magistrate is attached as Annexure -A.
- 6.3 Ld. Counsel submits that the manner of sale was discussed in the 5th SCC meeting held on 17th January and for the purpose of value maximisation it was decided to add and alternate prayer with Hon'ble NCLT. The copy of the minutes is annexed as Annexure -B.
- 6.4 It is stated that the commercial viability of the Corporate Debtor is dependent upon the continuation of its integrated business as running tea enterprise, which includes not only the physical assets but also its contracts, goodwill, licences, workforce and rights under various legal instruments. The abovementioned elements are inseparable from the Corporate Debtor and cannot be transferred by sale of isolated assets.
- 6.5 It is stated that in the present case, in order to achieve revival and value maximisation, it has become necessary that the Corporate Debtor be sold as a whole together with all its assets, rights, privileges, licences, contracts, statutory entitlements and itself.
- 6.6 It is stated that if the relief sought herein is not granted and the Corporate Debtor is sold only by way of piecemeal asset sale,

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leasehold rights will lapse, licenses will become infructuous and the tea garden operations will suffer from the piecemeal asset sale.

- 6.7 That in the aforesaid facts and circumstances, and alternatively to Prayer (a) of the Application, it is in the interest of justice that an order be passed by this Hon'ble Tribunal permitting the Liquidator to sell, as a whole, all the assets, rights and privileges of the Corporate Debtor, including but not limited to its possessory rights, legal and statutory rights, rights under contracts, licences, approvals, permissions and other instruments, as well as all such other rights as are or may become available in law to the Corporate Debtor, together with and including the juristic and legal entity of the Corporate Debtor itself and also the right to apply for and/or pursue for renewal of the lease of the tea garden in the of the Corporate Debtor an/or on behalf of the Corporate Debtor.

7. Analysis and Finding

- 7.1 We have heard the Learned Counsel appearing for the Applicant and have carefully considered the pleadings, the documents placed on record and the submissions advanced on behalf of the Liquidator.
- 7.2 Section 60(5) of the Insolvency and Bankruptcy Code, 2016 provides that the Tribunal shall have jurisdiction to entertain or dispose of any application by the liquidator for implementation of the liquidation process.
- 7.3 Prior to the amendment dated 14.10.2025, Regulation 32(e) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 permitted sale of the Corporate Debtor as a going concern. Regulation 31A(1)(f) required consultation with the Stakeholders Consultation Committee for such sale. Regulation 32A provided for sale as going concern exclusively at the first auction.

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- 7.4 The notification dated 14.10.2025 (IBBI/2025- 26/GN/REG129) amends the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, effective from the date of its publication in the Official Gazette (Reg. 2). These amendments apply prospectively— i.e., to ongoing liquidations where the sale as going concern under the erstwhile Reg. 32(e) has not yet commenced (e.g., no auction initiated)—to streamline asset disposals under the revised Reg. 32(a)-(d).
- 7.5 The amendments omit clause (f) of sub-regulation (1) of regulation 31A. In regulation 32, the amendments insert ‘or’ after clause (c), substitute period for comma in clause (d), omit clauses (e) and (f), and substitute “(d)” for “(O)” in the proviso. Regulation 32A is omitted.”
- 7.6 After the amendments, regulation 32 permits sale by clauses (a) to (d) only. Clause (a) permits an asset on a standalone basis. Clause (b) permits assets in a slump sale. Clause (c) permits a set of assets collectively. Clause (d) permits sale of the assets in parcel.
- 7.7 The liquidation process commenced on 17.10.2025. The Stakeholders Consultation Committee meeting held on 03.12.2025 directed the Liquidator to file an application for sale as a going concern. The application was filed on 06.01.2026. No e-auction under Regulation 32(e) was notified or conducted. No sale deed was executed. The process of sale as going concern was initiated but not commenced.
- 7.8 The phrase “liquidation by sale as going concern has not commenced” in Regulation 2 of the notification dated 14.10.2025 refers to the Stage where the actual sale transaction is initiated, such as conducting the auction and declaring a successful bidder as clarified in the IBBI’s Explanatory Memorandum to the notification. In this case, the auction notice was not issued, and no bidder was declared successful under Regulation 32(e). The

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amendments apply to this case. This interpretation aligns with the IBBI's explanatory note in the notification and contemporary analyses, wherein 'commencement' denotes the operational trigger of the sale mechanism, such as issuance of auction.

- 7.9 The omission of Regulation 32(e) removes the mode of sale as going concern. The Tribunal cannot approve a sale under a provision that stands omitted. The prayer for confirmation of sale as going concern under Regulation 32(e) is not maintainable.
- 7.10 The Stakeholders Consultation Committee approval under the omitted Regulation does not bind the Adjudicating Authority. The e-voting from 11.12.2025 to 17.12.2026 and the resolution passed on 18.12.2025 and the application was filed on 06.01.2026 but the amendments on 14.10.2025 supersede.
- 7.11 At this stage, it is necessary to consider the alternative prayer made by the Liquidator seeking permission to sell, as a whole, all assets, rights and privileges of the Corporate Debtor together with the juristic and legal entity of the Corporate Debtor. In view of the findings recorded hereinabove and the omission of Regulation 32(e), Regulation 32(f) and Regulation 32A from the Liquidation Regulations, this Adjudicating Authority is unable to grant any relief which would, in substance, amount to sale of the Corporate Debtor as a going concern or transfer of the Corporate Debtor as a continuing juristic entity. Grant of such relief would amount to indirectly restoring a mode of sale consciously omitted by the Insolvency and Bankruptcy Board of India with effect from 14.10.2025.
- 7.12 However, it is equally settled that the Liquidator is empowered under Section 35 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 32 of the Liquidation Process Regulations to realise and sell the assets of the Corporate Debtor in the manner prescribed therein. Regulation 32(b), as it presently stands,

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permits sale of the assets of the Corporate Debtor by way of slump sale. Therefore, while the prayer for sale of the Corporate Debtor as a juristic entity cannot be granted, there is no legal impediment in permitting the Liquidator to explore sale of the assets, rights, interests, licences, permits, approvals, contractual rights, actionable claims and other properties of the Corporate Debtor as a composite asset package or by way of slump sale in accordance with the provisions of the Code and the applicable Regulations.

- 7.13 It is made clear that any purchaser shall acquire only such assets, rights and interests as are legally vested in the Corporate Debtor and capable of transfer in accordance with law. Any statutory licence, approval, leasehold right, concession or permission shall remain subject to the applicable statutory framework and approval of the competent authority, wherever required. This order shall not be construed as conferring upon the purchaser any automatic right of renewal, extension or continuation of any lease, licence, permit or statutory approval.
- 7.14 Accordingly, the Liquidator shall be at liberty to undertake sale of the assets and rights of the Corporate Debtor in any of the modes presently permissible under Regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, including by way of slump sale under Regulation 32(b), but the prayer seeking sale or transfer of the Corporate Debtor itself as a juristic and legal entity stands rejected.
8. Accordingly, we reject the present Interlocutory Application in terms of the findings recorded in **Paragraph 7.14** hereinabove. The prayer seeking permission to sell the Corporate Debtor as a going concern or as a continuing juristic entity stands rejected.
9. **I.A (IB) No. 27/KB/2026** is disposed of accordingly.

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10. The Registry is directed to send e-mail copies of the order forthwith to all the party and their Ld. Counsel for information and for taking necessary steps.
11. The certified copy of this order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties, subject to compliance with all requisite formalities.

**(Cmde. Siddharth Mishra)
Member (Technical)**

**(Bidisha Banerjee)
Member (Judicial)**

Order signed on the 10th day of June, 2026.

S.T. (LRA)