

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT II**

**IA.No.2465/2021**

**In**

**CP(IB)1828/MB/C-II/2017**

Under Rule 11 of the National Company Law  
Tribunal Rules, 2016

**ACRE-54-Trust acting through its trustee  
Assets Care and Reconstruction Enterprise  
Limited** having its registered and corporate  
office at 2<sup>nd</sup> floor, Mohan Dev Building, 13,  
Tolstoy Marg, New Delhi and branch office at  
Quest Offices, Parinee Crescenzo, Opp. MCA,  
G Block, Bandra Kurla Complex, Mumbai  
400051

**.... Applicant**

**In the matter of**

**State Bank of India**

Having its branch office at Industrial Finance  
Branch, 5, Sai complex, Amravati Road, Post  
Box No. 401, Nagpur 440 033 and corporate  
office at State Bank Bhawan, Madam Cama  
Road, Nariman Point, Mumbai 400021

**...Petitioner/Financial Creditor**

**V/s**

**Jayaswal Neco Industries Limited**

Having its registered office at F8, MIDC  
Industrial Area, Hingna Road, Nagpur 440016

**...Respondent /Corporate Debtor**

**Order delivered on: 10.06.2022**

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**Coram:**

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

**Appearances:**

For the Applicant : Adv. Mr. Ameya Gokhale

For the Respondent : Adv. Mr. Amit Keswani

**ORDER**

***Per: Shyam Babu Gautam, Member Technical***

1. The Caption Petition being CP(IB)1828(MB)2017 filed by the Petitioner/Financial Creditor i.e. State Bank of India under section 7 of the IBC Code, 2016 against the Respondent/ Corporate Debtor, Jayaswal Neco Industries Ltd. The applicant herein is ACRE-54-Trust acting through its trustee Assets Care and Reconstruction Enterprise Limited ("ACRE"). The Petitioner has assigned its loan exposure to ACRE-54-Trust acting through its trustee, ACRE.
2. The present application is filed by the Applicant namely ACRE-54-Trust acting through its trustee Assets Care and Reconstruction Enterprise Limited ("ACRE") under Rule 11 of NCLT Rule, 2016 seeking (i) the substitution of the Applicant in place of the Original Petitioner i.e. SBI and (ii) subsequently, for the leave of this Bench to

withdraw the captioned petition for reasons and/or grounds more particularly stated in this Application.

3. On 17.12.2018, the SBI facilities were assigned to the Applicant by way of the Assignment Agreement date 17.12.2018 entered into between SBI and the Applicant namely ACRE-54-Trust acting through its trustee Assets Care and Reconstruction Enterprise Limited (“ACRE”).
4. It is further stated by the counsel that in view of the assignment of debt, Applicant is now the Financial Creditor in place of SBI and accordingly seeks to be substituted as the Petitioner in the captioned Company Petition.
5. On or around 05.01.2018, the Corporate Debtor filed a Writ Petition, being Writ Petition lodging no. 56/2018, before the Hon’ble High Court of Judicature at Bombay against the RBI, SBI and other 11 lenders of the Corporate Debtor challenging RBI’s actions with respect to the requirement of full implementation of the restructuring scheme of the Corporate Debtor by 13.12.2017 alleging contradiction of then extant RBI guidelines. By way of the said proceedings, the Corporate Debtor also sought directions from the Hon’ble High Court restraining SBI and other respondent-lenders from initiating any proceedings against the Corporate Debtor under the IBC until the hearing and final disposal of the said Writ Petition. The Hon’ble High Court was

however not inclined to pass any orders and directions as sought and was pleased to dismiss the said Writ Petition vide its order dated 05.03.2018(“High Court Order”).

6. On 13.03.2018 the Corporate Debtor challenged the High Court Order before the Hon’ble Supreme Court of India by way of Petition for Special Leave to Appeal (“SLP”) (C) No(s). 9286-9287/2019.
7. Shortly after the passing of the SC status quo order, the Captioned Company Petition came up for hearing before this Bench on 19.04.2018, when this Bench took note of the SC status quo order. The Corporate Debtor also filed an Affidavit dated 13.11.2019 wherein it intimated this Bench about the assignment of debt of various lenders including debt facilities of SBI.
8. One of the conditions of the Restructuring Support Agreement is that the Corporate Debtor shall unconditionally withdraw the aforesaid proceedings initiated before the Hon’ble Supreme Court, thereby leading to vacating of the SC status quo Order. One of the other conditions of the Restructuring Support Agreement is that, simultaneously with the withdrawal of Supreme Court proceedings by the Corporate Debtor, the present insolvency proceedings initiated against the Corporate Debtor (being the captioned Company Petition) shall also be withdrawn and, for the purpose of this withdrawal, the

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Applicant herein may approach this Bench by filing an appropriate Application.

9. In light of the aforesaid factual background, the present Application has been filed by the Applicant, therefore the Applicant requests this Bench to grant leave to withdraw the captioned Company Petition (after allowing the Applicant to be substituted in place of SBI as the Petitioner).
10. In view of the aforesaid submissions, this Bench is of the considered view that prayer (a) and (b) are allowed. Accordingly, the Company Petition is allowed to be withdrawn. **The IA.No.2465/2021 is allowed and CP(IB)1828(MB)2017 stands closed.**

**Sd/-**  
**SHYAM BABU GAUTAM**  
**Member (Technical)**  
10.06.2022

**Sd/-**  
**JUSTICE P.N. DESHMUKH**  
**Member (Judicial)**