

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT-2**

ITEM NO. 308  
IA No. 683 of 2023  
In  
C.P.(IB) No. 96 (AHM)2021

**Order under section 30(6) and section 31 of IBC**

**IN THE MATTER OF :**

**Charudutt Marathe,  
Resolution Professional of  
Safeco Hygiene Films Pvt. Ltd.**

...Applicant

**Order delivered on: 31/07/2023**

**Coram:**

Mr. Shammi Khan, Hon'ble Member (J)  
Mr. Ajai Das Mehrotra, Hon'ble Member (T)

**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

-Sd-

**AJAI DAS MEHROTRA  
MEMBER (TECHNICAL)**

-Sd-

**SHAMMI KHAN  
MEMBER (JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH (COURT NO. II)**

**IA No. /683/(AHM)/ 2023**

**In**

**CP (IB)/96/(AHM) /2021**

[Application under Section 30(6) and Section 31 of the Insolvency &  
Bankruptcy Code, 2016 for approval of Resolution Plan]

**IN THE MATTER OF:**

Charudutt Marathe,  
Resolution Professional of  
Safeco Hygiene Films Pvt. Ltd.

**...Applicant**

**IN THE MATTER OF:**

Ayodhya Orchards LLP

**...Financial Creditor**

**Versus**

Safeco Hygiene Films Pvt. Ltd.

**...Corporate Debtor**

**Order Pronounced on: 31.07.2023**

**Coram:**

**SHAMMI KHAN  
HON'BLE MEMBER (JUDICIAL)**

**AJAI DAS MEHROTRA  
HON'BLE MEMBER (TECHNICAL)**

**MEMO OF PARTIES**

**Mr. Charudutt Marathe,  
Resolution Professional of  
Safeco Hygiene Films Pvt. Ltd.**

Having registered address at:  
Gomed, 915, Khare Town,  
Dharampeth, Nagpur-440010

**...Applicant**

**Appearance:**

**For the Applicant** : Ms. Udita Singh Adv. a.w. Mr. Parth Shah Adv.  
Mr. Lovkesh Batra, PCS  
**For the SRA** : Mr. Kanishk Khetan, Adv.  
**RP in Person** : Mr. Charudutt Marathe

**ORDER**

1. This application is filed on 15.06.2023 under Section 30(6) & 31 of Insolvency & Bankruptcy Code, 2016 by Mr. Charudutt Marathe, Resolution Professional (RP) of the corporate debtor- Safeco Hygiene Films Pvt. Ltd. for approval of the Resolution Plan submitted by Mr. Jaydeep Maheshwari.
2. The averments made by the applicant/ resolution professional in the present application and as argued by the learned counsel are summarized as under:-
  - a) The Corporate Debtor was admitted into Corporate Insolvency Resolution Process (hereinafter referred to as **CIRP**) by this Adjudicating Authority vide order dated 01.08.2022, in an application filed by Ayodhya Orchards LLP - the Financial Creditor u/s 7 of the IB Code, 2016 wherein moratorium was

declared and CIRP was initiated. Mr. Charudutt Marathe was appointed as Interim Resolution Professional (hereinafter referred to as **IRP**). Thereafter, IRP made a public announcement in Form -A and collated claims and constituted the Committee of Creditors (*hereinafter referred to as “CoC” for short*) on 18.08.2022 consisting of two Financial Creditors namely M/s. Ayodhya Orchards LLP (having 68% voting share) and Union Bank of India (having 32% voting share).

- b) Subsequently, Appeal was preferred against admission order dated 01.08.2022 by M/s. Loganmoy Ltd. Mathesan Trust Company (BVI) Ltd. before Hon'ble NCLAT. The Hon'ble NCLAT vide order dated 07.09.2022 directed the Applicant to ensure that Corporate Debtor is run as a going concern and Resolution Plan if any shall not be put to vote without leave of the court.
- c) The CoC in its 1st meeting dated 24.08.2022 resolved to appoint applicant as Resolution Professional and the same was approved by this Adjudicating Authority vide its order dated 24.11.2022.
- d) The CoC was reconstituted in terms of admission of new claim from an unrelated Financial Creditor, consisting of the following:-

<b>Sr. No.</b>	<b>Name of Financial Creditors</b>	<b>Voting %</b>
1.	Ayodhya Orchards LLP	68.20 %
2.	Union Bank of India	31.67%

3.	Mercedes-Benz Financial Services India Pvt. Ltd. (earlier known as Daimler Financial Services India Pvt. Ltd.	0.13%
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- e) The Applicant published Form-G on 14.10.2022 for invitation of Expression of Interest in The Indian Express (Vadodara English Edition) & Gujarat Mitra (Gujarati Edition). In response thereto, he received 10 Expression of Interests from the Prospective Resolution Applicants. Thereafter, provisional list of PRAs was issued on 08.11.2022 and Final list of PRAs was issued and shared with CoC on 23.11.2022.
- f) Subsequently, the Applicant issued Information Memorandum, Request for Resolution Plan and Evaluation Matrix to all the Prospective Resolution Applicants. The last date for submission of Resolution Plan as per RFRP was 13.12.2022.
- g) The CoC in its 8<sup>th</sup> meeting dated 12.12.2022, passed resolution to extend the last date for submission of Resolution Plan from 13.12.2022 to 07.01.2023.
- h) The Applicant in 9<sup>th</sup> CoC meeting dated 09.01.2023, intimated to the CoC that only 3 resolution plans are received from the following Prospective Resolution Applicants:-
- i. SB Pacakagings Pvt. Ltd.
  - ii. Proma Industries Limited

iii. Sh. Jaydeep Maheshwari

- i) Meantime, CIRP period of 180 days were about to get over on 28.01.2023, the RP, with the approval from the CoC requested this Adjudicating Authority to extend CIRP period by 90 days and accordingly, CIRP period was extended by this Adjudicating Authority till 28.04.2023 vide its order dated 01.02.2023.
- j) The Applicant in 12<sup>th</sup> meeting of CoC dated 24.04.2023, apprised the CoC that appeal filed by M/s. Loganmoy Ltd. Mathesan Trust Company (BVI) Ltd. before Hon'ble NCLAT has been withdrawn and the Hon'ble NCLAT vide its order dated 24.04.2023 has excluded the period of 74 days with effect from 08.01.2023 to 24.04.2023 from the CIRP process, in view of which CIRP period would expire on 11.07.2023.
- k) That out of three PRAs, two PRAs namely, SB Pacakagings Pvt. Ltd. and Proma Industries Limited withdrew their Resolution Plan from CIRP of the Corporate Debtor therefore, in 18<sup>th</sup> CoC meeting dated 05.06.2023, revised resolution plan dated 01.06.2023 submitted by Mr. Jaydeep Maheshwari was put to vote. The resolution plan of Mr. Jaydeep Maheshwari was approved by the CoC with 100% votes.
- l) The resolution applicant- Mr. Jaydeep Maheshwari has proposed to infuse a sum of **Rs.38,12,19,175/-**. The details of the proposed payment to the stakeholders are as follows:-

<b>Particulars</b>	<b>Claims</b>		<b>Amt. proposed to be paid/infused/ reserved under Resolution Plan</b>
	<b>Received</b>	<b>Admitted</b>	
<b>IRP Cost*</b>	-	-	Unpaid CIRP costs, as per actuals
<b>Payment to Employees &amp; Workmen</b>	70,33,808	23,37,028	23,37,028
<b>Payment to Operational Creditors (Government Dues)</b>	46,41,409	1,37,26,565	1,37,26,565 has been reserved (To be paid as and when outstanding and payable)
<b>Payment to Operational Creditors (Other than Employess &amp; Workmen and Government</b>	15,80,63,027	15,44,56,115 Plus Rs. Approx. 10,00,000 as per books of the	15,54,56,115

<b>Dues)</b>		Company	
<b>Payment to Financial Creditors</b>	20,82,90,835	20,82,16,766	20,07,99,467
<b>Payment to Shareholders</b>	-	-	39,00,000
<b>Contigent Liabilities</b>	-	-	50,00,000
<b>TOTAL</b>			<b>38,12,19,175</b> <b>Plus unpaid IRP Costs, if any</b>

- m) The approved resolution plan of Safeco Hygiene Films Private Limited provides implementation schedule. The implementation schedule proposed by the Resolution Applicant is as under:-

<b>Sr. No.</b>	<b>Action</b>	<b>Timeline</b>
1.	Date of receipt of NCLT's approval for the Resolution Plan (Approval Date)	X
2.	Constitution of Monitoring Committee	X+1 day
3.	Change in management of the Corporate Debtor, by appointment of Directors nominated by RA on the Board of the Corporate Debtor and necessary procedural compliances to be done	
4.	Opening/Identification of Designated Bank Account in the	



	name of the Corporate Debtor as may be decided by the Monitoring Committee	X+6/7 days
5.	Extinguishment of Existing Paid-up share capital & Allotment of Fresh Equity Shares to the Resolution Applicant and other shareholders and necessary procedural compliance to be done	
6.	Payment of unpaid IRP costs	
7.	Payment & Settlement of Operational Creditors dues and payment to shareholders	
8.	Payment & Settlement of Financial Creditors dues	
9.	Financial Creditor to release Encumbrances (including making filings with Registrar of Companies/Sub-registrar of assurances and other governmental agencies for recording such release), execute reconveyance deeds, issuance of no-dues certificates and delive the documents.	Within 3 days of full payment as per above step
10.	Date of providing an implementation report covering the period commencing from the approval date and ending at the implementation date detailing the compliance of conditions and completion of the payments as proposed under this plan by Resolution pplicant Nominee to the Monitoring Agent	Within 7 days after release of all the relevant securities as mentioned above
11.	Date of providing certificate of consummation and certificate of implementation by the Monitoring Agent	Within 3 days of report by the Resolution Applicant Nominees

- n) The Resolution Plan also provides for performance security of Rs. 5 crores as per sub-regulation (4A) of regulation 36B of the CIRP Regulations, 2016. It is verified in Form – H and the bank statement filed by the RP that the performance security of Rs.5 Crore was deposited in the account of Corporate Debtor. Thus, it is seen that the amount of Rs.5 Crore, being performance security was received by the RP before the submission of the Resolution Plan for approval.
- o) The Resolution Plan provides for treatment of Contingent liabilities wherein for settlement of all and any contingent liabilities of the Corporate Debtor, the Resolution Applicant proposes a maximum infusion of Rs. 50,00,000.
- p) The resolution plan also provides that amount claimed under ongoing litigation & other litigation by way of order, decree, judgement etc. shall be inexecutable against the Resolution Applicant or the Corporate Debtor and shall be settled at NIL value.
- q) The existing shares of the Corporate Debtor will be extinguished in full and new equity shares will be issued to the Resolution Applicant along with other shareholders in the manner and ratio mentioned in Step 2 of Part IV of the Plan.
- r) The Applicant has produced on record compliance certificate in Form-H which reflects that liquidation value of the Corporate Debtor is Rs.31.66 Crore and

the value of the Resolution Plan is Rs.38,12,19,175/-. The value of the plan is higher than the liquidation value.

3. In accordance with Section 31(1) of the Code, 2016 the approved resolution plan shall be binding on the corporate debtor and its employees, members, and creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan. It is also clarified that neither the Corporate Debtor nor the Resolution Applicant shall be required to make any payments over and above the amount provided for under the said Resolution Plan on and from the date of approval of the resolution plan.
4. This Adjudicating Authority vide order dated 03.07.2023 directed the learned counsel appearing for the Applicant to furnish details with respect to sources of funds to be brought in by SRA and to produce original affidavit of SRA u/s 29A of IBC,2016. In compliance with said order an affidavit of compliance dated 10.07.2023 is placed on record.
5. The resolution applicant Mr. Jaydeep Maheshwari is an individual and is carrying on the business under the name of JM Traders. Further, he is also a director on the

board of Shriram Briquetting Private Limited and holds more than 2% of the paid-up share capital in the said Company. Sources of funds is Rs.40 Crore which is obtained by said Resolution Applicant by way of loan from Umang Trading Pvt. Ltd.

6. We have heard learned counsel for the applicant and perused the material available on record. It is noted that Form H has been filed by Resolution Professional wherein all information/details as regards to conduct of CIRP as well as the process adopted for the Resolution Plan have been given. The Resolution Applicant has proposed to pay the Financial Creditors Rs.20,07,99,467/- against its total admitted claim of Rs.20,82,16,766/-. An amount of Rs.17,15,19,708/- has been proposed in the Resolution Plan for payment to the Operational Creditor against the total admitted claim of Rs.17,05,19,708/- including the Statutory Dues and Employees/Workmen.
7. It is further noted that an affidavit as regards the eligibility of the resolution applicant under Section 29A along with the undertaking of the resolution applicant to this effect has been filed. We have also perused the contents of the resolution plan, we are of the view that Regulations 36 to 39 of CIRP Regulations, 2016 have been complied with. We further noted that the resolution plan complies with all requirements under Section 30(2)(b) of the IB Code. We also find that the resolution plan addresses the cause for failure and also contains measures to run the Corporate Debtor in future and that

the resolution plan is both feasible and viable as held by CoC and it also contains provisions for its effective implementation. Accordingly, we being satisfied, approve the Resolution Plan and pass the following order:-

- I.** The resolution plan of Mr. Jaydeep Maheshwari for Corporate Debtor i.e., Safeco Hygiene Films Pvt. Ltd. is allowed as per Section 30(6) of the IBC, 2016.
- II.** The approved 'Resolution Plan' is annexed with this order at **Annexure - A** and shall become effective from the date of passing of this order.
- III.** The order of moratorium dated 01.08.2022 passed by this Adjudicating Authority under Section 14 of the IB Code shall cease to have effect from the date of this order.
- IV.** The Resolution Plan so approved shall be binding on the Corporate Debtor and its employees, members, creditors, guarantors and other stakeholders involved in the Resolution Plan.
- V.** The monitoring committee as proposed in Part II of the resolution plan shall be constituted for supervising the effective implementation of the Resolution Plan.
- VI.** Any applications filed and pending for preferential, undervalued, fraudulent, extortionate transactions shall be pursued by SRA and net amount recouped,

if any, shall be retained/kept by Corporate Debtor/  
Resolution Applicant.

**VII.** The Resolution Professional, Mr. Charudutt Marathe, shall be released from the duties of the resolution professional of the Corporate Debtor as per the provisions of the IB Code and rules/regulations made thereunder.

**VIII.** The Resolution Professional shall forthwith send a copy of this Order to the participants and the resolution applicant(s).

**IX.** The Resolution Professional shall forward all records relating to the conduct of the corporate insolvency resolution process and Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.

**X.** As regards various reliefs and concessions which are being sought, we hereby grant the following reliefs and concessions only as against reliefs and concessions claimed by the resolution applicant:-

- i. After the payment of the dues to the creditors, as per the resolution plan, all the liabilities of the said stakeholders shall stand permanently extinguished and other claims including Government/Statutory Authority, whether lodged during CIRP or not, shall stand extinguished after the approval of the

resolution plan. We further hold that contingent/unconfirmed dues shall also stand extinguished;

- ii. From the date of this order, all claims except those provided in the plan of the Corporate Debtor stand extinguished.
- iii. From the date of this order, all encumbrances on the assets of the Corporate Debtor before the plan shall stand permanently extinguished.
- iv. For reliefs and concessions sought from the Government/Statutory Authorities including environmental clearance as well as stamp duty, we direct the resolution applicant to approach the concerned Authorities. The concerned Authorities may decide the matter as per applicable provisions of law for effective implementation of the Resolution Plan.
- v. As regards reliefs prayed under various provisions of the Income Tax Act, 1961, the corporate Debtor/ resolution applicant may approach the Income Tax Authorities who shall take a decision on relief and concessions sought by the resolution applicant in accordance with the provisions of the Income Tax Act, 1961.
- vi. The resolution applicant shall be entitled to review, revise or terminate any

appointments/agreements entered into by or on behalf of the Corporate Debtor in accordance with the terms and conditions of such agreements/MoUs/contracts;

- vii. The management of the Corporate Debtor shall be handed over to the Board of Directors as may be nominated by the resolution applicant for proper running operations of the business of the Corporate Debtor;
- viii. The Board of Directors of the Corporate Debtor shall also be reconstituted and procedural compliances shall be done to give effect to such reconstitution;
- ix. The resolution applicant shall, pursuant to the resolution plan approved under Section 31(1) of the Code, obtain necessary approvals required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under Section 31 or within such period as provided for in such law, whichever is later, as the case may be;
- x. All the approvals of shareholders/members of the Corporate Debtor shall be deemed to have been obtained and the provisions made in the resolution plan as regards the restructuring of capital shall be binding on them. For



concession of stamp duty as prayed in the resolution plan, the resolution applicant may approach the concerned Government Authority.

- xi. With respect to the grant of license/ Government approval if the license or approval is terminated, suspended and revoked. The resolution applicant may approach the concerned Department/ Authorities for such approval/ renewal and Government Authorities may consider the request of the resolution applicant as per applicable provisions of law for the effective implementation of the resolution plan.

8. Accordingly, IA 683 of 2023 is allowed with the above-said observations and directions and stands disposed of.
9. An urgent certified copy of this order, if applied for, is to be issued to all concerned parties upon compliance with all requisite formalities.

-Sd-

**AJAI DAS MEHROTRA**  
**MEMBER (TECHNICAL)**

-Sd-

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

Arati-LRA