

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2

ITEM No.304

IA/1057(AHM)2023 in CP(IB)/96(AHM)2021

Order under Sections 33(4), 34, 74(3) & 60(5) IBC r.w Rule 11 of NLCT Rules, 2016

IN THE MATTER OF:

UNION BANK OF INDIA

.....Applicant

VS

JAYDEEP MAHESHWARI SUCESSFUL RESOLUTION
APPLICANT IN SAFECO HYGIENE FILMS PVT LTD & Ors.

.....Respondent

Order delivered on 16/10/2023

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

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

-Sd-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

-Sd-

CHITRA HANKARE
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)**

**IA No. 1057 / NCLT / AHM / 2023
IN
CP(IB) No. 96 / NCLT / AHM / 2021**

(Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016)

IN THE MATTER BETWEEN

Union Bank of India Applicant

Versus

Jaydeep Maheshwari & Others. Respondent

AND IN THE MATTER OF

Ayodhya Orchards LLP ... Financial Creditor

Versus

SAFECO Hygiene Films Pvt. Ltd. ... Corporate Debtor

Order pronounced on 16.10.2023

Coram:

**Coram:
MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

MEMO OF PARTIES

Union Bank of India
Having Branch office at
Stressed Assets Management Branch,
1st Floor, Rangoli Complex,
Opp: V S Hospital,
Nr. Ellisbridge, Ahmedabad

... Applicant

Versus

1. Mr. Jaydeep Maheshwari

Successful Resolution Applicant in
Safeco Hygiene Films Pvt. Ltd.
Having its address at:
Banskhedi, Shivpuri,
Nr. Garima Petrolpump,
Madhya Pradesh-473551

... Respondent No.1

2. Charudat Marathe,

Resolution Professional of
M/s. Safeco Hygiene Films Pvt. Ltd.
Having office at
Gomed, 915, Khare Town,
Dharampeth, Nagpur
Maharashtra- 440010

... Respondent No.2

3. Ayodhya Orchads LLP

Committee of Creditors of
M/s Safeco Hygiene Films Pvt. Ltd.
Having office at
Ayodhya, 3rd Floor,
Plot No.119, Bajajnagar, Na Nagpur,
Nagpur,
Maharashtra – 440011

... Respondent No.3

4. Mercedes-Benz Financial Services India Pvt. Ltd.

Committee of Creditors of
M/s Safeco Hygiene Films Pvt. Ltd.
Having office at
5th Floor, Plot No.8,
Baashyam Willow Square 9 & 10
First Street, Thiru Vika Industrial Estate,
Guindy NA Chennai,
Chennai,
Tamil Nadu – 600032

... Respondent No.4

Present:

For the Applicant : Mr. Sumit Parikh, Adv.
For the Monitoring Committee : Mr. Karan Grover, Adv.

ORDER

1. This is an Application by the Union Bank of India (i.e., One of the Member of the CoC and solo Secured Financial Creditor of the Corporate Debtor viz., M/s. Safeco Hygiene Films Private Limited under Section 33(4), 34, 74(3) and 60(5) of the Insolvency & Bankruptcy Code, 2016 (IBC, 2016) r/w Rule 11 of National Company Law Tribunal Rules, 2016 seeking reliefs to revoke resolution plan approved on 31.07.2023.
2. The learned Counsel for the Applicant filed withdrawal pursis on 06.10.2023 wherein the applicant of IA No. 1057 of 2023 in CP(IB)/96/NCLT/AHM/2021 is seeking permission to withdraw this application.
3. Learned Counsel for the Applicant submits that the applicant had received Proposed Amount from the Resolution Applicant as per the approved Resolution Plan thus, he is willing to withdraw this application.
4. While considering the withdrawal application the Tribunal observes that the Resolution Plan was approved in the matter of Ayodhya Orchard LLP vs. M/s Safeco Hygiene Films Pvt. Ltd. on 31.07.2023. The CORPORATE DEBTOR was admitted into CRIP vide order dated 01.08.2022. The CoC consisted of two financial creditors viz Ayodhya Orchard LLP (68% voting shares) and Union Bank of India (32% voting shares). The committee was also reconstituted after claim was received from Mercedes- Benz Financial Ltd (0.13% voting shares). The plan was approved by the CoC with 100% majority. The approved resolution plan had a detailed implementation schedule which was to be monitored by the committee to be formed within 1 day of the pronouncement of the order. The successful Resolution Applicant was to infuse the sum of Rs. 38,12,19,175/- plus IRP cost, if any, which was almost covering the payments to financial creditors and other operational creditors in full. An amount of Rs. 5 Crores was also brought in as security deposit by the

Resolution Applicant. The Financial creditor were to be paid Rs.20.07 Lakhs against total admitted claim of 20.82 Lakhs. The implementation date was the date when the completion of confirmation certificate is provided by the Monitoring Agent and the monitoring period is the date commencing from the date of approval of the resolution plan by the Tribunal and ending on the implementation date.

5. Within 50 days from the approval of the Resolution Plan and without further details as to whether the monitoring committee has started the process to initiate the settlement proposed in the resolution plan, the Applicant independently, under 33(4), 34, 74(3) and 60(5) of the IBC 2016 without valid reasons has moved an Application for passing liquidation order on 18.09.2023 and before its admission/ further process of examination of the matter by this Tribunal, has filed for withdrawal of the application through the counsel.
6. While allowing the withdrawal of the **IA No. 1057 / NCLT / AHM / 2023 IN CP(IB) No. 96 / NCLT / AHM / 2021**, the Tribunal conveys the serious dissatisfaction and observed irresponsible manner in which the financial creditor (Applicant) move an application within a short period of 50 days for approval of tribunal for liquidation of the CORPORATE DEBTOR under various provisions of this Act to scuttle the initiation of resolution of the CORPORATE DEBTOR approved by the Tribunal.
7. Therefore it is necessary that application must be saddled with some costs.
8. Hence we pass the following order:
 - a. Application is allowed. IA is disposed off as withdrawn.

- b. The applicant has to deposit the cost of Rs. 1 Lakhs in the **Prime Minister's National Relief Fund** within a period of 10 days from the date of this order.

-Sd-
DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

-Sd
CHITRA HANKARE
MEMBER (JUDICIAL)

Puneet Shukla - LRA