

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT – II)

Item No. 204
IB-505/ND/2022
IA-12/ND/2024, IA-1629/ND/2024

IN THE MATTER OF:

Mahi Buildhome Pvt. Ltd. ... **Operational Creditor**
Versus
Unibera Developers Pvt. Ltd. ... **Corporate Debtor**

AND IN THE MATTER OF I.A. NO. 12/ND/2024:

(Under 30(6) Regulation 39(4))

Mr. Ayyagari Viswanadha Sarma

(RP of Unibera Developers Private Limited)
Deloitte India Insolvency Professionals LLP,
7th Floor, Building 10, Tower-B, DLF Cyber City,
Phase II, Gurgaon, Haryana, 122002

... **Applicant**

Versus

Joint Venture of Mahi Buildhome Pvt. Ltd. And First Forge Limited

(Through Mahi Buildhome Private Limited
Lead Member of the Consortium)
G-496, GAMA-II, Greater Noida,
Uttar Pradesh - 201306

... **Respondent**

Under Section: 9 of IBC Code, 2016

Order delivered on 25.09.2025

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

SH. RAVINDRA CHATURVEDI, HON'BLE MEMBER (T)

PRESENT:

For the RP : Adv. Sumesh Dhawan, Adv. Vaisala Kal, Adv. Sagar Thakkar
For the Respondent : Adv. Neeraj Kr. Gupta, R-1 & R-2 in IA 1629/2024
For the SRA : Adv. Abhishek Anand

Hearing Through: VC and Physical (Hybrid) Mode



ORAL ORDER

IA-12/ND/2024: Prayer made in the captioned application reads thus:-

- “(i) accept and approve the final resolution plan dated 17.02.2024 read along with the addendums to the resolution plan dated 24.02.2024 and 28.02.2024 as submitted by the Successful Resolution Applicant, namely the Joint Venture of Mahi Buildhome Private Limited and First Forge Limited and as approved by the CoC by absolute majority, for the CIRP of the Corporate Debtor in terms of the provisions of the Code; and
- (ii) pass any such or further order(s) as this Hon'ble Adjudicating Authority may deem fit and proper in the facts and circumstances of the present case in the interest of justice, equity and good conscience.”

2. The petition could be preferred under Section 9 of IBC, 2016 by M/s Mahi Builders Home Pvt. Ltd. (Operational Creditor) seeking initiation of CIRP qua the Corporate Debtor (Unibera Developers Private Limited). The amount of debt defaulted to be paid to the applicant is Rs. 13,46,61,197/-. The Part-IV of the application preferred by Operational Creditor reads thus:-

PART-IV

PART IV
PARTICULARS OF OPERATIONAL DEBT

PARTICULARS OF OPERATIONAL DEBT	
1.	<p>TOTAL AMOUNT OF DEBT, DETAILS OF TRANSACTIONS ON ACCOUNT OF WHICH DEBT FELL DUE, AND THE DATE FROM WHICH SUCH DEBT FELL DUE</p> <p>The Operational Creditor was engaged as a "Contractor" by the Corporate Debtor for the construction-related works that were to be done in the real estate project(s) of the Corporate Debtor with all in terms and conditions as agreed between the parties vide work orders dated 30th April 2015 & 1st October 2021.</p> <p>The Operational Creditor performed its job with the best of its professional skills and the corporate debtor has never raised any objection to the quality of work done by the Operational Creditor.</p>



		<p>Further, the Operational Creditor had been working under the contractual terms in the real estate project of the Corporate Debtor, and all the bills issued against the work done were duly acknowledged invoices by the Corporate Debtor. The Operational Creditor raised RA bills for every work done, although the Corporate Debtor has acknowledged the receipt of such RA bills raised by the Operational Creditor.</p> <p>The total work done by the Operational Creditor since its engagement with the Corporate Debtor has reached Rs. 37,36,59,614/- (Rupees Thirty-Seven Crore Thirty Six Lakh Fifty-Nine Thousand Six Hundred Fourteen Only). In this regard, the total amount paid to the Operational Creditor is Rs. 13,46,61,197/- (Rupees Thirteen Crore Forty-Six Lakh Sixty One Thousand One Hundred Ninety-Seven Only) [Rs. 11,53,64,437/- has been paid to the Cement & Steel Suppliers directly] and a huge amount of Rs. 6,22,43,451/- (Rupees Six Crore Twenty Two Lakh Forty-Three Thousand Four Hundred Fifty-One Only) has been adjusted by the Corporate Debtor by issuing allotments of flats in the name of the Operational Creditor. In view of the above, in spite of acknowledging the liability of admitted operational debt of Rs. 6,13,90,529/- (Rupees Six Crore Thirteen Lakh Ninety Thousand Five Hundred Twenty Nine Only), the Corporate Debtor has miserably failed to make payment of the admitted dues to the Operational Creditor. The Corporate Debtor made the last payment on 03.11.2020 and no further payment has been done after said date.</p> <p>The Corporate Debtor has an admitted liability of operational debt tune to Rs. 6,13,90,529/-</p>
2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DATES OF DEFAULT IN TABULAR FORM)	Rs. 6,13,90,529/- (Rupees Six Crore Thirteen Lakh Ninety Thousand Five Hundred Twenty Nine Only). Default date: 03.11.2022 (Annexure A4: Ledger)

3. The process as prescribed in IBC, 2016 as also in IBBI (CIRP) Regulations, 2016 could be followed and incidentally the Operational Creditor who initiated the CIRP could emerge as Successful Bidder/Successful Resolution Applicant.

4. The present application has been preferred under Section 30(6) of the IBC, 2016, for approval of the Resolution Plan of SRA. On perusal of the record, we could see that RP could issue a certificate in the prescribed form viz. Form-H. The Resolution Plan submitted by the SRA satisfied the requirements of Section 30(2) of IBC, 2016 and while examining the Resolution Plan for approval, under Section 30(4) of the Code, the CoC could also satisfy itself that the requirements of Section 30(2) as also other relevant Regulations such as Regulations 36 to 39 of IBBI (CIRP) Regulations, 2016 are met. While giving the certificate in Form H, the RP could also authenticate that the SRA is not disqualified/ineligible to submit the Resolution Plan in terms of provision of Section 29A of IBC 2016, which reads thus:-

FORMAT V
UNDERTAKING BY THE RESOLUTION APPLICANT

[In case of consortium, for each member of the consortium] [on stamp paper of appropriate value]

To,
Mr. Ayyagari Viswanadha Sarma,
(Resolution Professional for Unibera Developers
Private Limited)
Deloitte India Insolvency Professionals LLP,
7th Floor, Building 10, Tower B,
DLF Cyber City, Phase II, Gurgaon, Haryana -
122002

Dear Sir,

Sub: Resolution Applicants' undertaking in relation to the resolution plan in response to the request for resolution plan for submission of resolution plan for Corporate Debtor dated 3 January 2024 issued by Resolution Professional in accordance with the approval of the Committee of Creditors dated 3 January @024] ("RFRP")

1. We, Lead Partner of Joint Venture, M/s Mahi Buildhome Private Limited ("Resolution Applicant"), refer to the RFRP and provide our unconditional acceptance of the terms and conditions of the RFRP as amended from time to time in accordance with the procedure set out under the RFRP, including but not limited to the Disclaimer contained in the RFRP. Further and in relation to the said Request for Plan and the Resolution Plan Process set out thereunder, the Resolution Applicant undertakes, agrees and acknowledges that the Resolution Applicant (collectively, the "Undertaking"):

(a) shall execute all such deeds and documents as may be required to be so executed pursuant to the completion of the Resolution Plan Process;

(b) has submitted the resolution plan and other requisite documents strictly as performs prescribed in the RFRP, without any deviations or conditions and without setting out any assumptions or notes qualifying the resolution plan;

(c) the resolution plan shall be valid up to the Plan Validity Period. It is clarified for abundant caution that if we are declared as Successful Applicant, then our resolution plan shall be valid until the date on which it is fully implemented in accordance with the terms of the Successful Plan;

(d) the resolution plan is in compliance in all respects with the provisions of the IBC (including specifically Regulation 38 of the CIRP Regulations) and does not contravene any of the provisions of the law for the time being in force;

(e) has submitted a certified true copy of a valid board resolution or duly executed



power of attorney in original signed by a person authorized by the board of the [Resolution Applicant]/Lead Partner of Joint Venture, Mahi Buildhome Private Limited in a duly convened board meeting (copy attached);

- ① [Applicable for consortium] [the Lead Partner is nominated and duly authorized by the aforementioned members of consortium] pursuant to the consortium agreement dated [insert] to represent the consortium and commit all the members of consortium to the obligations under the RFRP and the resolution plan (copy attached);
- ② has obtained all the corporate authorizations required or expedient under Applicable Law for the submission of the resolution plan (copy attached);
- ③ shall, except as otherwise required under the RFRP, upon being notified as the Successful Applicant, pay such amounts and consideration as set out in the resolution plan in the manner agreed to between the Resolution Applicant and the Committee of Creditors at terms mutually agreeable to Committee of Creditors and the Resolution Applicant strictly in accordance with the procedure set out under the RFRP;
- ④ shall, prior to the transfer, execute such agreement(s) as may be required, to the satisfaction of the Resolution Professional and the Committee of Creditors in accordance with the RFRP;
- ⑤ shall have no claims of any nature against the Resolution Professional, the Committee of Creditors, and/or their delegates, Representatives for any reason whatsoever and for any actions undertaken during the CIRP Period;
- ⑥ has provided all information and data during this Resolution Plan Process, in a manner that is true, correct, accurate and complete and no such information, data or statement provided by the Resolution Applicant is inaccurate or misleading in any manner; and

does not suffer from any ineligibility under Section 29A of the IBC or any other provisions of the IBC.

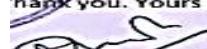


We further undertake and confirm that the financial proposal submitted as part of the resolution plan is unconditional and irrevocable and acknowledge and agree that the Committee of Creditors reserves the right to negotiate better terms with the Resolution Applicant(s) who have submitted resolution plans and any decision taken by the Committee of Creditors and/or the Resolution Professional in relation to the resolution plan and the Resolution Plan Process shall be final and binding on the Resolution Applicant. Further, in addition to the undertaking set out hereinabove, the Resolution Applicant undertakes and confirms that every information and record provided in connection with or in the resolution plan and all the confirmations, declarations and representations made in the resolution plan are true, correct and valid as on the date of this Undertaking, and acknowledge that discovery of any false information and record at any time will render the Resolution Applicant ineligible to continue in the CIRP of the Companies, attract penal action under the IBC, and the Resolution Professional, acting on the instructions of the Committee of Creditors, or the Committee of Creditors shall at its discretion be entitled to cancel our resolution plan and encash / forfeit Bid Bond or Performance Security where any such confirmations, information, records, declarations or representations are found to be incorrect or misleading. Provided further that the Monitoring Committee/steering committee or any committee formed in terms of resolution plan for monitoring the implementation of resolution plan, after its formation shall also be entitled to forfeit Performance Security where any such confirmations, information, records, declarations or representations are found to be incorrect or misleading.

2. We further undertake that we shall, unconditionally and irrevocably, promptly upon demand, indemnify and hold harmless the Indemnified Parties, against all actions, proceedings, claims, demands, losses, liabilities, damages, costs and expenses imposed, asserted against or incurred by the Indemnified Parties, arising out of or pursuant to or in connection with a breach of the obligations of the Resolution Applicant under the RFRP, the resolution plan and/or the Letter of Intent or in the event the Resolution Applicant withdraws the resolution plan or withdraws from the Resolution Plan Process subsequent to the approval of the concerned resolution plan by the Committee of Creditors or delays in the implementation of the resolution plan submitted by the Resolution Applicant, and the resolution plan submitted by the Resolution Applicant shall contain an undertaking to this effect.

Capitalized terms used herein but not defined shall have the meaning ascribed to such term in the RFRP. Terms used herein but not defined otherwise shall have meaning prescribed to them under the provisions of the IBC, rules and regulations there under, as the case may be.

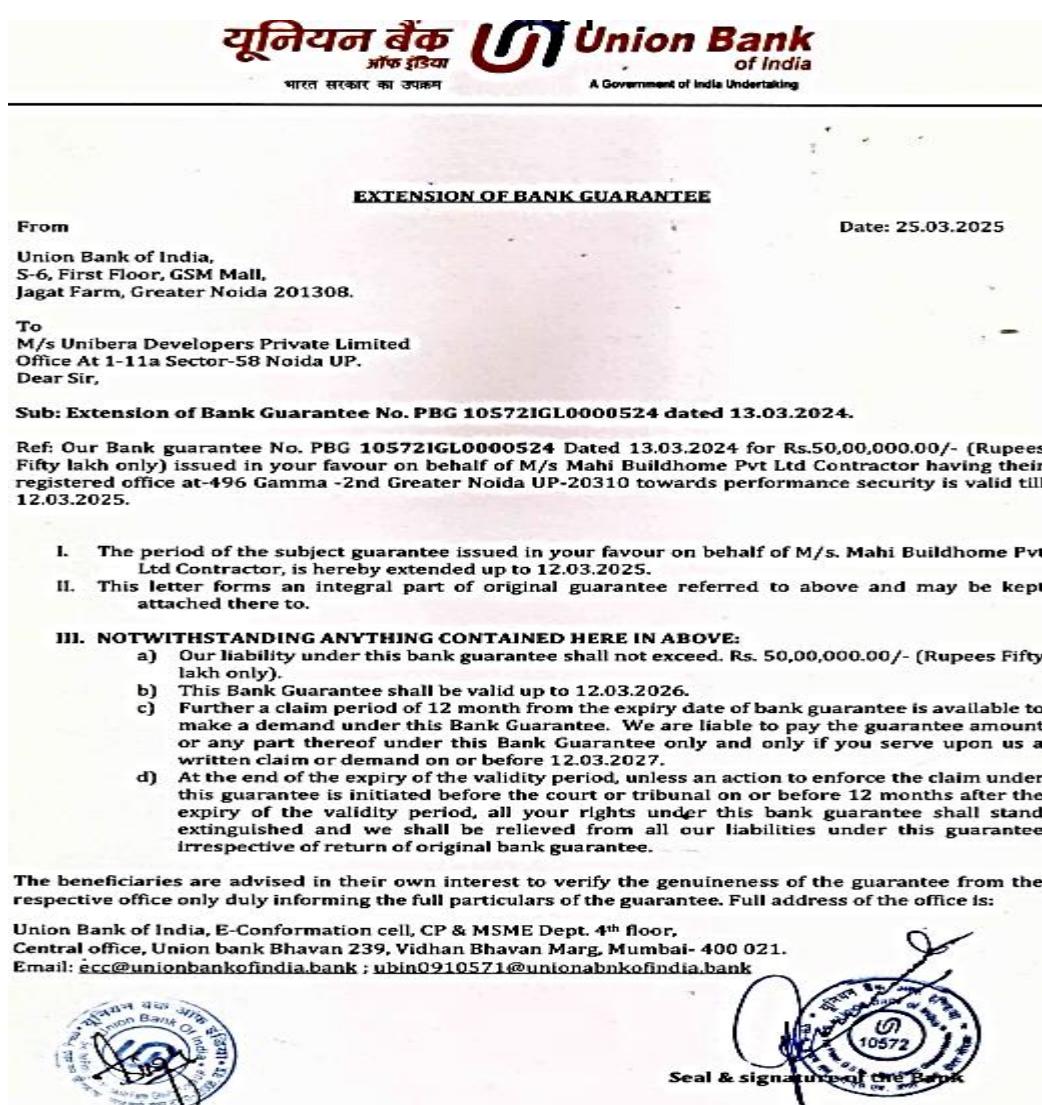
Thank you. Yours sincerely,


ARVIND SOAM
Director & Authorized
Signatory

Address: - R 559 JALVAYU
VIHAR P4 BUILDERS AREA
KASNA GARETER NOIDA



5. The RP has also placed on record a copy of the Performance Bank Guarantee (PBG) furnished by the SRA for implementation of the Resolution Plan, on the same being approved by this Tribunal. The PBG has been issued by Union Bank of India for an amount of Rs. 50 Lakhs which is valid till 12.03.2026. According to Ld. Counsels for RP and SRA, the Bank would be liable to honour the PBG till 12.03.2026 or up to the implementation of the Resolution Plan, as the case may be. The extended Bank Guarantee reads thus:-



6. As could be seen from the certificate given by the RP in Form-H, the liquidation value and fair value qua the assets of the Corporate Debtor are Rs.

19.46 Crore and Rs. 26.15 Crore respectively, while the value of the resolution plan is Rs. 254 Crores, i.e. much higher than the fair value. The RP has also placed on record the financial proposal/cash flow to indicate that the Resolution Plan is implementable. The statement reads thus:-

ANNEXURE - 2											
FINANCIAL PROPOSAL/CASHFLOW											
UNIBERA DEVELOPERS PRIVATE LIMITED											
S.N	DESCRIPTION	Total Amount in Crore	Within 30 days after effective date/ on or before transfer date	1 Qtr.	2 Qtr.	3 Qtr.	4 Qtr.	5 Qtr.	6 Qtr.	7 Qtr.	8 Qtr.
A	Inflow										
1	Upfront Infusion	35.000	20.000		10.000	5.000					
2	Receipt from Buyer (Exc. IFMS)	55.310		6.914	6.914	6.914	6.914	6.914	6.914	6.914	
3	Receipt from sale of Unsold Units	122.423			2.000	8.000	26.000	22.000	11.000	11.000	42.423
4	Escalation in rates from buyers	39.313				6.552	6.552	6.552	6.552	6.552	6.552
5	Receivable from sale of cancelled flats, car parking etc	15.750					2.000				13.750
	Total Inflow	267.796	20.000	6.914	18.914	26.466	41.466	35.466	24.466	24.466	69.639
B	Outflow										
1	Payment to CRIP Inc Deloitte	3.7500	3.750								
2	Payment to Operational Creditors	5.145					5.145				
3	Payment to Operation Creditors- Commercial Tax Department	1.780	1.780								
4	Payment to Operation Creditors- Employees	0.175	0.175								
5	Payment to Allottees of Commercial Units (Shops)	3.180	For Mahi Buildhome Pvt. Ltd.		For First Forge Limited		1.590				1.590
6	Refund of Cancelled /Unclaimed/units under paid of 10 lakhs	10.000				5.000					5.000
7	Land Payment	45.000	13.250		7.940	7.940	7.940	7.930			
8	Construction Cost including all approvals, sanctions	117.000		6.000	9.000	14.000	16.000	20.000	20.000	20.000	12.000
9	Brokerage, Sales & Marketing Expenses @5% on Unsold Inventories	6.909			0.100	0.400	1.400	1.100	0.550	0.550	2.809
10	Other Administrative Overhead @5.0% on total receipt	13.390	1.000	0.346	0.946	1.323	2.073	1.773	1.223	1.223	3.482
11	Contingencies @2.5% on Construction cost	2.925		0.150	0.225	0.350	0.400	0.500	0.500	0.500	0.300
12	Interest on capital infuse (Avg for 24 Months)	9.800				1.633	1.633	1.633	1.633	1.633	1.633
	Total Outflow	219.053	19.955	6.496	18.211	25.647	41.182	32.937	23.907	23.907	26.814
	Surplus /-Deficit Cashflow (A-B) including capital	48.743	0.045	0.418	0.703	0.819	0.284	2.529	0.559	0.559	42.825
	Cumulative Cashflow without infusion of capital	13.743	-19.955	0.418	-9.297	-4.181	0.284	2.529	0.559	0.559	42.825

NOTE:-

1. This Cashflow is tentative and it may vary as per actual according to requirement of project.
2. Quarter means: - Quarter means three months from the transfer date.

7. Our attention could also be drawn to Clause 7 of the compliance certificate given by the RP in the prescribed form. The certificate indicates that



the Unsecured Financial Creditor, the Statutory Authority, the Workman and employees are offered 100% of the admitted claim, while the Operational Creditors are also offered 72.29% of the admitted claim. Since Operational Creditor itself is the SRA, the payment offered to it is hardly of any consequence. Though the plan seems to be a healthy plan and there are hardly any haircut taken by the creditors and stakeholders, still as could be viewed by Hon'ble Supreme Court in the case of **Committee of Creditors of Essar Steel India Limited vs, Satish Kumar Gupta and Others** [(2020) 8 SCC 531], it is the commercial wisdom of CoC to accept the offer given by the Bidders/Resolution Applicant and to accept the plan, and the scope of interference by this Tribunal in this regard is not there.

8. As has been noted, the SRA has given an undertaking that irrespective of the grant of Relief and Concession, the plan would be implemented. As can be seen from the provision of Section 31(4), after approval of the Resolution Plan under Section 31(1) of the Code it is for SRA to ensure that all the requirements for implementation of plan are fulfilled within a period of one year. Besides the provisions of Section 32A are also applicable to SRA and the assets of the Corporate Debtor, when the Resolution Plan submitted is not by the Promoters or Directors of the Corporate Debtor. The provision would also apply in the present case.

9. It is noted the additional affidavit dated 28.08.2025 filed in terms of order dated 19.08.2025 of this Tribunal is on record.

10. Subject to the aforementioned, the Resolution Plan is approved, and it is directed that:-



- a. The Monitoring Committee and Legal Committee would be formed within two days in terms of the plan.
- b. The terms of the resolution plan would commence within 30 days.
- c. The upfront amount of cash infusion would be deposited in the account of the Corporate Debtor within 30 days.
- d. The CIRP cost would be paid in terms of the plan.
- e. The Operational Creditor would be paid within 24 months.
- f. The completion of construction as also the delivery of flats to Financial Creditor/Home Buyers would be done within 18 months, and in no circumstances beyond 24 months.

11. As has been mentioned in the Resolution plan, the benefit of the outcome of the PUFE Application would go to the creditors, who are Homebuyers. The Monitoring Committee would comply with Regulation 38(4) of the IBBI(CIRP) Regulations, 2016. The R.P. would comply with the provisions of Regulation 39(5 to 6) and 39A of IBBI(CIRP) Regulation, 2016, as also those of Section 31(3)(b) of the Code. Any failure to adhere to the plan would entail consequences.

12. The copy of this order would be sent to IBBI as also RoC by the Court Officer.

The application stands allowed and is disposed of.

IA-1629/ND/2024: List on **13.11.2025.**

Sd/-
(RAVINDRA CHATURVEDI)
MEMBER (T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)

Poonam/Ruchita