

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.303

IA/721(AHM)2026 in IA/1287(AHM)2025 in C.P.(IB)/207(AHM)2024
Proceedings under Section 60(5) of the IBC,2016 r/w Rule 11 of the NCLT
Rules,2016

IN THE MATTER OF:

Ajay Radheshyam Goenka PG Rainbow Papers Limited
V/s
Mr.Ramchandra Dallaram Choudhary RP of Ajay
Radheshyam Goenka & Another

.....Applicant

.....Respondent

Order delivered on: 10/06/2026

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This 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)
INTERLOCUTORY APPLICATION(IBC) NO. 721 OF 2026**

IN

INTERLOCUTORY APPLICATION NO. 1287 OF 2025

IN

COMPANY PETITION (IB) NO. 207(AHM) OF 2024

(Under Section 60(5) of the Insolvency and Bankruptcy Code,
2016 read with Rule 11 of the NCLT Rules, 2016)

IN THE MATTER OF:

Ajay Radheshyam Goenka

Personal Guarantor to M/s Rainbow Papers Ltd.

Having Address at 201, Avdhesh House,
Opp. Gurudwara Dham, Thaltej,
Ahmedabad- 380054

...Applicant

Versus

1. Mr. Ramchandra Dallaram Choudhary

Resolution Professional of

Ajay Radheshyam Goenka

Having Address at 9B Vardan Tower,
Near Vimal House, Lakhudi Circle,
Navrangpura, Ahmedabad, Gujarat- 380014

2. Uttar Gujarat Vij Company Limited (UGVCL)

Having Address at UGVCL kalol division office
Mahendra mill road. Kalol, Gandhinagar 382721

.... Respondents

Sd/-

Sd/-

Order pronounced on 10.06.2026

Coram:

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

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

Present:

For the Applicant : Mr. Dheeraj Garg Adv.

JUDGEMENT

1. The present application has been filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016) *inter alia* seeking following prayer
 - a. *Declare that the ex-parte decree dated 05.01.2023 passed by the Principal Senior Civil Judge, Kalol, is void ab initio and bad in law for expressly violating the moratorium under Section 14(1)(a) of the IBC;*
 - b. *Quash all the legal actions taken by Respondent No. 2/ UGVCL by declaring the same to be violative of section 96 and 101 of the IBC;*
 - c. *Quash the participation of Respondent No. 2/UGVCL in the personal insolvency resolution process of the Applicant/PG;*

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d. Remove the Respondent No. 2/UGVCL from array of parties in IA No. 1287 of 2025;

2. The Applicant submitted that the application has been filed for challenging the participation and claim of Respondent No. 2/UGVCL in the Personal Insolvency Resolution Process of the Applicant/Personal Guarantor. It is submitted that no deed of personal guarantee was ever executed by the Applicant in favour of UGVCL and, therefore, Respondent No. 2 cannot be treated as a creditor within the meaning of Section 5(22) of the Insolvency and Bankruptcy Code, 2016.
3. It is further submitted that the electricity connection was granted to the Corporate Debtor M/s Rainbow Papers Ltd. and due to alleged outstanding dues, UGVCL instituted Special Civil Suit No. 48 of 2017 after commencement of CIRP of the Corporate Debtor despite moratorium under Section 14 of the IBC being in operation. That on 26.07.2022, Special Civil Suit No. 48 of 2017 filed by UGVCL was ordered to be converted into Commercial Civil Suit No. 32 of 2022. On 05.01.2023, the Principal Senior Civil Judge, Kalol, passed an ex-parte judgment

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and decree in Commercial Civil Suit No. 32 of 2022, directing the defendants (including the Applicant) to jointly and severally pay the outstanding amount of Rs. 1,13,13,583/- with 9% interest. It is submitted that the continuation of such proceedings and the consequent ex-parte judgment and decree dated 05.01.2023 are contrary to the statutory moratorium and therefore void ab initio and non-est in the eyes of law.

4. The Applicant further submitted that on 15.05.2024, an application under Section 94 of the IBC was filed to initiate the Personal Insolvency Resolution Process (PIRP) against the Applicant, Ajay Radheshyam Goenka, interim moratorium under Section 96 came into effect, however, despite such statutory protection, UGVCL proceeded with execution proceedings against the Applicant by filing Commercial Execution Petition No. 08 of 2024. Further it is submitted that the PG preferred an appeal before the Hon'ble Gujarat High Court which was dismissed on ground of delay. It is submitted that such recovery actions are in direct violation of Sections 96 and 101 of the IBC, 2016.

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5. It is also submitted that during CIRP of the Corporate Debtor, Respondent No. 2 failed to lodge its claim before the IRP/RP and upon approval of the Resolution Plan under Section 31 of the IBC, all unclaimed dues stood extinguished. Further submitted that the alleged claim of UGVCL cannot now be revived through execution proceedings or participation in the present PIRP.
6. It is submitted that the claim filed by Respondent No. 2 before the Resolution Professional in the present PIRP came to be rejected. However, Respondent No. 2 has subsequently been impleaded in IA No. 1287 of 2025, pursuant to which it has sought to press and pursue its claim against the Applicant despite such rejection having remained unchallenged.
7. It is therefore prayed that, participation of Respondent No. 2/UGVCL in the present personal insolvency proceedings be quashed and appropriate orders be passed declaring the actions initiated by Respondent No. 2 as contrary to the provisions of the Insolvency and Bankruptcy Code, 2016.
8. The applicant filed notes of argument on maintainability of application and submitted that this tribunal has wide

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jurisdiction conferred under Section 60(5) of the Insolvency and Bankruptcy Code, 2016. It is submitted that the issues raised in the present application arise directly out of and in relation to the insolvency resolution process of the Applicant and, therefore, fall within the exclusive jurisdiction of this Tribunal.

9. It is further submitted that by virtue of Sections 231 and 238 of the IBC, the provisions of the Code override all other laws and the jurisdiction of civil courts stands barred in matters where the Adjudicating Authority is empowered to pass orders under the Code. Applicant, further submitted that once CIRP of the Corporate Debtor commenced on 12.09.2017, the institution and continuation of proceedings before the Civil Court were prohibited under Section 14 of the IBC, 2016.

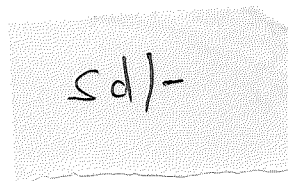
10. Further submitted that despite the statutory moratorium, UGVCL instituted Special Civil Suit No. 48 of 2017 after commencement of CIRP and consequently the Civil Court lacked jurisdiction to entertain such proceedings. NCLT was empowered to adjudicate claims under the ongoing CIRP, the Kalol Civil Court was statutorily stripped of its jurisdiction by the combined

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overriding force of Sections 60(5), 231, and 238. It is submitted that the decree passed therein is coram non iudice and unenforceable in law.

11. In support of the aforesaid submissions, reliance has been placed upon the judgment of the Hon'ble Supreme Court in *Alchemist Asset Reconstruction Company Ltd. v. Hotel Gaudavan Pvt. Ltd. Civil Appeal No. 16929 of 2017*, wherein it was held that proceedings instituted after commencement of moratorium under Section 14 are non est in law. Reliance has also been placed on the decision of the NCLT, Mumbai Bench in *Mr. Atul Rajwadkar vs. HDFC Bank Limited I.A. 2189/2020*, wherein an arbitral award passed during subsistence of moratorium was set aside. Further reliance has been placed upon *Vineet K Chaudhary vs. The Regional P.F Commissioner-IA 1694/2020, IA 1086/2020 and IA 1089/2020* to contend that recovery proceedings initiated during moratorium are liable to be quashed. Reliance has also been placed upon *Chandrasedkhar Sagutoor RP of Mrs. Vimala Joseph Raj vs. Mrs. Vimala Joseph*

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RajIA/IBC/2316/(CHE)/2024 wherein actions taken in violation of Section 96 moratorium were declared null and void.

12. It is further submitted that the powers of this Tribunal under Section 60(5) read with Section 238 of the IBC are sufficiently wide to examine the legality of proceedings initiated in contravention of the moratorium provisions and to grant consequential reliefs in relation thereto.
13. We have perused all the records and documents placed before us.

14. **Observations:**

- a. The CD was admitted in CIRP on 12.09.2017. The Resolution plan for the CD was approved on 27.02.2019. During the CIRP process, the UGVCL filed Special Civil Application No. 48 of 2017 before the Kalol Court for recovery of its electricity dues against the CD. On 26.07.2022 the said Civil Suit was converted into Commercial Civil Suit No. 32 of 2022. The Ex-parte order and judgement was passed on 05.01.2023 for payment of the outstanding amount.

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- b. The applicant filed Personal Insolvency application on 15.05.2024. The PIRP was admitted on 04.06.2025. He submitted that the application is filed u/s 94 IBC, 2016 and Interim Moratorium was started for prohibiting any action by the creditor. Further, the UGVCL filed a commercial execution petition, wherein No. 8 of 2024 for execution of ex-parte decree, the applicant/PG preferred an appeal before the Hon'ble Gujarat High Court against the said ex-parte decree, which was dismissed on 06.03.2025.
- c. The claim of UGVLC filed before the RP was rejected. The RP filed an IA No.1287 of 2025 u/s 112 of the IBC, 2016 also making the UGVCL as a party.
- d. The application was filed by the UGVCL against the CD before the Civil Court and not against the Applicant/PG. The said commercial civil suit was decreed. The Applicant himself filed a petition before the Hon'ble High court for setting aside the ex-parte decree, which was dismissed for delay. When the petition for setting aside the decree is

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already dismissed by the Hon'ble High Court on merit, no cause of action survives to file it again before this Tribunal.

- e. Even when the UGVCL filed the execution application during the moratorium in PRIP process, they might have filed execution petition against the CD and not against the PG. The petition is already rejected by the Hon'ble High Court and also the decree was passed by the Civil Court, the NCLT has no jurisdiction to said the decree aside at this stage.
- f. The UGVCL filed the claim in form-B before the Resolution professional for their outstanding amount which was already rejected by the RP. Only he has made UGVCL as a party in the application u/s 112 of IBC, 2016 which makes no difference to the applicant. Moreover, IA 1287 of 2005 was already disposed of on 06.05.2026, therefore this prayer has also become infructuous

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g. Under such circumstances, the application itself is not-maintainable and deserves to be dismissed.

15. Hence we pass the following order:

ORDER

The IA No. 721 of 2026 in IA No. 1287 of 2025 in CP(IB) 207 of 2024 is rejected and disposed of

Sd/-

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

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)