

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH, COURT-II

KOLKATA

I.A. (IB)(Liq) No. 13/KB/2025

IN

C.P. (IB) No. 60/KB/2024

An application under Section 33 of the Insolvency and Bankruptcy Code, 2016 and applicable regulations.

IN THE MATTER OF

IDBI Bank Limited

... Financial Creditor

Versus

Saumya Mining Limited

... Corporate Debtor

AND

IN THE MATTER OF:

Subodh Kumar Agarwal

... Applicant/RP

CLARIFICATION ORDER

I.A. (IB)(Liq) No. 13/KB/2025 in C.P. (IB) No. 60/KB/2024 was reserved for orders on 18th March, 2026. The following detail needs to be clarified:

- The present application has been filed under Section 33 of the Insolvency and Bankruptcy Code, 2016, seeking commencement of Liquidation of the Corporate Debtor.
- Paragraph 33¹ of the captioned Interlocutory Application reads as follows:-

“The E-Voting was started from 16th May, 2025 at 06:00 PM which was continued till 11th July, 2025 on the request received from the CoC. The CoC rejected the Resolution Plan of M/s Maheswari Mining Limited with 74.16% value of votes and M/s Yaduka Agrotech Limited (previously Yaduka Agrotech Private Limited) with 35.33% value of votes and hence the resolution plan got rejected by way of e-voting concluded on 11th July, 2026. Hence, the Resolution Plan as submitted by the Resolution Applicants did not obtain the requisite majority of 66% value of votes of the CoC. Hence, there is no plan which can be placed before this Hon’ble Tribunal for approval.”

- The voting share of the CoC as disclosed in the application is reproduced hereinbelow:-

<u>Name of the Creditor</u>	<u>Voting Share</u>
IDBI Bank Ltd.	38.67%
State Bank of India	25.84%
L&T Finance Limited	35.33%
Tata Capital Ltd.	0.16%

- As stated in the aforesaid paragraph, the Resolution Plan submitted by M/s Yaduka Agrotech Limited (previously Yaduka Agrotech Private Limited) secured 35.33% voting share. Prima facie, it appears that L&T Finance Limited had voted in favour of the said Resolution Plan. Since the Plan failed to obtain the

¹ Page 18 of the Application.

requisite voting threshold of 66% as mandated under the Code, the Resolution Plan stood rejected.

- However, upon perusal of the revised Minutes of E-Voting of the Eighteenth Meeting of the CoC of the Corporate Debtor, annexed to the application² it is observed that at Serial No. 3, pertaining to voting on the Resolution Plan submitted by M/s Yaduka Agrotech Private Limited, the following has been recorded:-

“Rejected as only 35.33% value of votes in favour.

State Bank of India intimated that due to some constraints they are unable to vote on the Resolution Plans as of now and need further discussions on the Resolution Plan”

- The need for clarification arises inasmuch as the aforesaid observation appears to be contradictory to the contents recorded at page 6 of the E-Voting Minutes³, wherein it has been stated that L&T Finance Limited, having a voting share of 35.33%, had voted against the Resolution Plan submitted by Yaduka Agrotech Ltd. Further, at Serial No. 4 of the said Minutes⁴, under the agenda item titled *“To consider and approve the filing of an application under Section 33 of the Insolvency and Bankruptcy Code, 2016 before the Hon’ble NCLT seeking liquidation of the Corporate Debtor”*, the following has been recorded:-

“35.33% value of votes in favour.

However, IDBI Bank with 38.67% value of votes on 11th July, 2025 by email intimated that they has voted in assent for the Resolution Plan submitted by Prospective Resolution Applicant, Yaduka Agrotech Ltd.

Tata Capital Ltd. abstained from voting.

² Annexure F at p. 129 (Page 10 of the E-voting Minutes).

³ Annexure F at p. 125

⁴ Annexure F at p. 130

State Bank of India intimated that due to some constraints they are unable to vote on the resolution plans as of now and need further discussions on the Resolution Plan.

The resolution is rejected”

(emphasis supplied)

- In view of the aforesaid, it remains unclear as to which member of the CoC had voted in favour of the Resolution Plan submitted by Yaduka Agrotech Ltd. and which creditor had voted against the same.
- Further as per Regulation 39(3)(B) of the Insolvency And Bankruptcy Board Of India (Insolvency Resolution Process For Corporate Persons) Regulations, 2016:-

“(3B) Where two or more resolution plans are put to vote simultaneously, the resolution plan, which receives the highest votes, but not less than requisite votes, shall be considered as approved:

Provided that where two or more resolution plans receive equal votes, but not less than requisite votes, the committee shall approve any one of them, as per the tie-breaker formula announced before voting:

Provided further that where none of the resolution plans receives requisite votes, the committee shall again vote on the resolution plan that received the highest votes, subject to the timelines under the Code.”

- Thus, in a situation where more than one Resolution Plan is placed before the CoC and none of the plans secures the requisite majority, the CoC is required to conduct a fresh round of voting on the Resolution Plan which has secured the highest voting share, subject to the timelines prescribed under the Code.

- However, in the present application, there is no averment whatsoever with regard to any re-voting having been conducted on the Resolution Plan submitted by Yaduka Agrotech Ltd., which admittedly secured a higher voting share as compared to the other Resolution Plan that stood rejected with 74.16% votes against it.
- List the matter on 13th July, 2026.

Rekha Kantilal Shah

Member (Technical)

Labh Singh

Member (Judicial)

Order dated the 22nd of May, 2026.

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CLARIFICATION ORDER

Upon perusal of the records and documents placed on record, this Bench is of the considered view that certain clarifications are required in the present matter. Accordingly, let the matter be listed for clarification before this Bench on 22nd May, 2026.

Rekha Kantilal Shah
Member (Technical)

Labh Singh
Member (Judicial)