

UltraTech proposes to acquire Binani's stressed assets

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CNBC TV18@moneycontrolcom



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CNBC-TV18 spoke to Sameer Kaji, the senior advisor at Binani Industries and he said that they are still in the process of working out the final arrangements, after which the ownership will move to UltraTech.

In an interview to CNBC-TV18, Arjun Gupta, Corporate Insolvency Lawyer at Nishith Desai Associates spoke on Insolvency and Bankruptcy Code (IBC).

Below is the verbatim transcript of the interview:

Q: How come Binani is taking a loan from UltraTech? The basic premise was that the defaulting promoters cannot participate. So how is this happening?

A: It is all about structuring move and Section 29A which was included through an amendment which provides eligibility criteria for resolution applicant specifically barred promoters. So Binani Industries could not have been a resolution applicant in the entire process. Therefore, what they are doing is they want to sell their entire shareholding to UltraTech.

Q: Can they do that?

A: Whether they can do that or not, there is no specific barred under the code for an existing shareholder to sell its assets to third party however, if you see Section 14 of the code which deals with moratorium, it also says that there will be no incumbent sale or in any manner any rights being created in respect of assets of the corporate debtor in favour of any third party. Over here since the shares of the company are definitely one of its assets, whether there can be change of ownership in the assets of the company during the pendency of the insolvency proceedings to an extent where the entire ownership control and management of the company will be shifted to a different entity which entity itself is involved in the entire insolvency process that is yet to be seen.