

Indian Institute of Insolvency Professionals of ICAI

(Disciplinary Committee)

DC. No. - IIIPI/DC/205/2024-25 & IIIPI/DC/206/ 2024-25

ORDER

In the matter of Mr. Ravinder Kumar Goel (Respondent) under Clause 15(1) of the Disciplinary Policy of IIIPI read with Clause 24(1)(c) of Byelaws of Indian Institute of Insolvency professionals of ICAI (IIIPI).

- 1.0** This order disposes of the Show Cause Notice (SCN) dated 11-10-2024 issued to the respondent Mr. Ravinder Kumar Goel, Flat No. 211, Platinum Tower, Peer Muchalla, Dhakoli, Sahibzada Ajit Singh Nagar, Punjab, 160104. Respondent is a professional member of the Indian Institute of Insolvency Professionals of ICAI (IIIPI) and an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (Board) with Registration No IBBI/IPA-001/IP-P00705/2017-2018/11252. The Disciplinary Committee of IIIPI (DC) issued SCN to the respondent, based on the reference received from the Grievance Redressal Committee of IIIPI (GRC) pertaining to assignment handled by him as Interim Resolution Professional (IRP)/ Resolution Professional (RP) in the matter of **M/s Sandwoods Infratech Projects Private Limited (Corporate Debtor) (CD)**. The Respondent submitted his reply to the SCN vide email dated 28-10-2024.
- 2.0** The DC referred to SCN, written submissions of the respondent and other material available on record for disposal of the SCN in accordance with the Code and Regulations made thereunder. An opportunity of personal virtual hearing was provided to the respondent on 03-12-2024 by the DC, however, respondent sought adjournment for the scheduled hearing. Given the circumstances the respondent matter was rescheduled to 21-07-2025, however he neither responded nor turned up for DC proceedings. Therefore, DC went ahead to dispose of the SCN on the basis of response submitted by the respondent and other materials available on record.
- 3.0 Contravention-** DC observed that prior to the initiation of the CIRP of the CD, a homebuyer (complainant) in the instant matter approached State Consumer Disputes Redressal Commission, UT, Chandigarh, (SCDRC) due to non-allotment of physical possession of the unit allotted to complainant within the agreed timelines. Consequently, SCDRC awarded a decree/order dated 08-07-2021, against the CD and directed to pay an amount of Rs. 27,85,025/- with interest 12% p.a. plus compensation of Rs. 50,000/-.

In execution of the above-said order of SCDRC, the complainant and the suspended directors /CD entered into a settlement agreement vide settlement deed dated 16-08-2021 for full and final payment. Pursuant to said settlement deed, the CD issued 10 post-dated cheques, out of which first two (2) cheques were cleared and before remaining eight (8) cheques could be cleared the CIRP of the CD was initiated, vide NCLT order dated 25-10-2021. -The respondent was appointed as IRP in the said process, and he allowed the complainant to settle his claim out of the scope of CIRP.

Since, as per the scheme of the code any dues pending pertaining to the CD prior to the commencement of the CIRP should become claim and must be settled under the provisions of IBC and should not have been settled out of the scope of IBC, the DC held the *prime facie* view that respondent has contravened Section 14, 208(2) (a) of the Code, Regulation 7(2)(a) and (h) of the IBBI (Insolvency Professional) Regulations 2016 read with clause 14 of the Code of Conduct for Insolvency Professionals, specified under First Schedule of IBBI (Insolvency Professionals) Regulations, 2016.

- 3.1 Submissions by Respondent** - Respondent in this regard submitted that the CIRP of the CD was commenced on 25.10.2021 and respondent as IRP immediately took charge of the corporate debtor.
- 3.1.1** Respondent further submitted that the complainant was allotted to flat no. 26 in tower-A by the CD in 2015. Thereafter the allottee vide email dated 08.03.2018 showed his inability to make the payment of the purchase consideration due to unfavorable family circumstances.
- 3.1.2** Respondent further submitted that the allotment of the complainant of flat no. 26 in tower-A was cancelled and re-allotted to Sh. Manoj Kumar and Smt. Kanchan Bither by CD before the commencement of the CIRP and as on the date of commencement of the CIRP, the Sh. Manoj Kumar and Smt. Kanchan Bither was allottee as per books of the CD handed over to the IRP by the CD and the allottee Sh. Manoj Kumar and Smt. Kanchan Bither filed its claim with the IRP on 05.11.2021.
- 3.1.3** Respondent further submitted that the complainant had initiated proceedings against ex-managing director Sh. Shiv Kumar Bagolia (personally) before the State Consumer Dispute Redressal forum Chandigarh for recovery of refund amount against his cancelled flat. These proceedings were initiated in 2019, much prior to the commencement of the CIRP in October 2021.
- 3.1.4** Respondent further submitted that the State Consumer Dispute Redressal forum Chandigarh passed an order for a refund of Rs. 27,85,025.00 along with interest @12% p.a. from the date of payment by the complainant. The said order of the State Consumer Forum was delivered on 08-07-2021 i.e. three months before the CIRP commenced.
- 3.1.5** Respondent further submitted that in the light of above said of order, the Managing director Mr. Shiv Kumar Bagolia entered into a settlement agreement with the complainant and agreed to pay the amount of Rs. 43,44,958.00 in 10 installments. The settlement deed was executed on 16-08-2021 i.e. two months before the CIRP commenced. Mr. Shiv Kumar Bagolia issued 10 postdated cheques of the CD to make the payment under settlement. All the above developments took place before commencement of CIRP

- 3.1.6** Respondent further submitted that as per the above settlement two cheques were honored before the commencement of the CIRP. The third cheque dated 18-10-2021 was presented for payment after the commencement of CIRP and was dishonored.
- 3.1.7** Respondent further submitted that CIRP commenced on 25.10.2021 and the complainant was informed about the commencement of CIRP and was advised to file his claim vide email dated 02.11.2021. However, the complainant preferred to re-approach the State Consumer Forum against Sh. Shiv Kumar Bagolia personally, instead of filing its claim with IRP.
- 3.1.8** Respondent further submitted that during the proceedings before State Consumer Forum the complainant and Sh. Shiv Kumar Bagolia in his personal capacity, mutually entered into settlement without any liability on the part of the CD. Thereafter, Mr. Bagolia informed the RP that he has made full payment to the complainant and settled the matter with him in his personal capacity.
- 3.1.9** Respondent further submitted that he as RP has been diligent in the performance of his duties and in protecting the interests of the CD and preserved the value of the CD for the benefit of all stakeholders of the CD.
- 3.1.10** Respondent further submitted that the provisions of the moratorium were strictly implemented and enforced and no violation of the same was allowed to occur. This is evident from the fact that no payment under the settlement deed was allowed after the commencement of the CIRP and Moratorium.
- 3.1.11** Respondent further submitted that the Payment to the complainant was made by the suspended director personally to settle his personal proceedings to which the CD was not a party. It is again reiterated that the CD has not made any payment to the complainant at any time after the commencement of the CIRP.
- 3.1.12** The RP has always abided by the code and regulations and carried the CIRP with utmost transparency and honesty, resulting in a successful resolution plan and therefore no mala fide or negligent conduct be attributed to the IRP/RP.

3.2 Findings- The DC notes that section 14 of the Code explicitly prohibits various actions against the corporate debtor that could disrupt the resolution process, except for the supply of essential and critical services. Section 14 of the Code reads as follows:

“14. Moratorium.

(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: -

- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;*

- (b) transferring, encumbering, alienating or disposing off by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- (d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

- (2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.
- (2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances.
- (3) The provisions of sub-section (1) shall not apply to — (a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority; (b) a surety in a contract of guarantee to a corporate debtor.
- (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.”

3.2.1 The moratorium under the Code is a period wherein no judicial proceedings for recovery, enforcement of security interest, sale or transfer of assets, or termination of essential contracts can be initiated or continued against the CD. The said provision ensures that there is no devolution of a CD’s assets during the CIRP so that the CD can be continued as a going concern.

3.2.2 Further, section 25(1) of the Code also provides as under:

“25. Duties of resolution professional. –

It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.”

3.2.3 In the instant matter DC notes the submission of the respondent that the complainant was informed about the commencement of CIRP and was advised to file his claim vide email dated

02.11.2021. However, the complainant preferred to re-approach the State Consumer Forum against Sh. Shiv Kumar Bagolia personally, instead of filing its claim with IRP.

3.2.4 DC also notes the submission of the respondent that during the proceedings before State Consumer Forum the complainant and Sh. Shiv Kumar Bagolia in his personal capacity, mutually entered into settlement without any liability on the part of the CD. Thereafter, Mr. Bagolia (*suspended director of the CD*) informed the RP that he has made full payment to the complainant and settled the matter with him in his personal capacity.

3.2.5 In view of the foregoing DC notes that the respondent has been able to provide satisfactory justification for the alleged contravention. DC further notes that the action of the respondent did not have any adverse impact on the CIRP of the CD in any manner. DC also notes the absence of any mala fide intent on the part of the respondent and therefore, DC cannot hold respondent guilty for the contravention, as alleged.

Order

4.0 Accordingly, in exercise of the powers conferred under Clause 24(1) (c) of Byelaws of Indian Institute of Insolvency professionals of ICAI read with clause 15(1) of the Disciplinary Policy of IIIPI, DC pronounces the respondent as non-guilty. Accordingly, the show cause notice is disposed of without any direction.

5.0 This order shall come into force from the date of its issue.

6.0 A copy of this order shall be forwarded to the Insolvency and Bankruptcy Board of India.

Date: 17-10-2025

Place: New Delhi

CERTIFIED TRUE COPY

Sd/-

Mr. Sunil Pant, (Chairman)

CA Charanjot Singh Nanda, (Member)

Mr. Rajvir Singh, (Member)

CA Rahul Madan, (Member)

Copy to:

1. Insolvency and Bankruptcy Board of India.

2. Indian Institute of Insolvency Professionals of ICAI- Members Record