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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 379/2023**

M/S R KRISHNAMURTHY AND CO ..... Petitioner  
Through: Mr. Sandeep Bajaj, Ms. Honey  
Satpal, Mr. Vipul Jai & Mr. Mayank  
Bajaj, Advocates.  
versus

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA AND  
ANR. .... Respondents  
Through: Mr. Ashish Verma & Arnav Sanyal,  
Advocates. (M: 9871603434)

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**ORDER**  
% **12.01.2023**

1. This hearing has been done through hybrid mode.
2. The Petitioner- M/s Krishnamurthy & Co., who was a complainant before Respondent No.1- IBBI, is aggrieved by some portions of the impugned order dated 28th October, 2022. Thus, it has filed the present petition seeking removal of the said portions which consist of submissions of Respondent No.2, an insolvency professional, recorded in the order.
3. The background facts of the matter are that the Petitioner had made a complaint dated 27th January, 2021 against Respondent No.2, who was appointed as a liquidator of M/s Pratibha Industries International Ltd. The said complaint was considered by the IBBI after issuing notice to Respondent No.2. After hearing the said Respondent, the IBBI vide the impugned order imposed a penalty of Rs.5,00,000/- and passed certain other directions against Respondent No.2. However, in the present petition, the

Petitioner's grievance is not against the final directions issued in the said order but against the contents of the order which consists of certain allegations raised by Respondent No.2 against the Petitioner. The apprehension of the Petitioner is that the said portion can be misconstrued by third parties as findings against the Petitioner as the order is available in public domain.

4. The submission of Id. Counsel is that since the Petitioner was merely a complainant, he was not heard by the IBBI and, thus, the allegations made by Respondent No.2 which are recorded in the form of submissions could not have been controverted by the Petitioner. The Petitioner's claim is that it is a government contractor and the arguments and allegations of the Respondent No.2 are having an adverse impact on its commercial interest. Id. Counsel for the IBBI submits that the order makes it clear that the paragraphs which are complained against are merely the submissions of Respondent no.5 and not the findings of the Board.

5. The Court has perused the order dated 28th October, 2022. It is clear that some paragraphs of the impugned order notes certain allegations made by Respondent No.2 against the Petitioner, however, they are under the heading '**Submissions made by the IP**'. In the opinion of the Court, on a cursory reading it may not be clearly evident that the said allegations are in the form of submissions. If a third party reads this order there is a likelihood that the same could be misconstrued as an observation or finding by IBBI against the Petitioner.

6. It is accordingly directed that paragraphs 3.8.1, 3.8.2 and 3.8.7 of the impugned order shall be only construed as submissions on behalf of Respondent No. 2, and not as observations and findings of the IBBI.

Clarified accordingly.

7. The other grievance of the Petitioner is that the allegations made by the Petitioner of siphoning of funds by Respondent No.2 have not been considered by the IBBI at all.
8. Issue notice to the Respondents to the said limited extent, i.e., relating to the allegation of siphoning of funds, which is stated in paragraph 14 of the present writ petition under the heading '*Siphoning of funds*'.
9. Let notice be served. Counter affidavit be filed within six weeks. Rejoinder, be filed within four weeks.
10. List before Registrar on 24<sup>th</sup> April, 2023.
11. List before Court on 3<sup>rd</sup> August, 2023.
12. The present order shall be uploaded by IBBI on its website along with the impugned order dated 28<sup>th</sup> October, 2022.

**PRATHIBA M. SINGH, J.**

**JANUARY 12, 2023**

*dj/sk*