

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Disciplinary Committee)

No. IBBI/DC/241/2024

09 August 2024

ORDER

This Order disposes of the Show Cause Notice (SCN) No. COMP-11012/237/2022-IBBI/754/599 dated 17.05.2023 issued to Mr. Subrata Monindranath Maity, bearing address B 202, Jai Gurudeo Complex, Plot 16-19 and 21-25, Sector 17, Kamothe, Navi Mumbai, Maharashtra- 410209 who is an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (IBBI) with Registration No. IBBI/IPA-001/IP-P00884/2017-2018/11481 and is a Professional Member of Indian Institute of Insolvency Professionals of ICAI (IIPICAI).

1. Background

- 1.1 The NCLT, Ahmedabad Bench (AA) *vide* order dated 17.02.2020, admitted application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (Code) filed by Bank of India, Financial Creditor (FC) against M/s Eskay K'N'IT (India) Limited (Corporate Debtor/CD), for initiating Corporate Insolvency Resolution Process (CIRP) against it. Mr. Vikas Prakash Gupta was appointed as Interim Resolution Professional (IRP) of CD by order of even date. Thereafter, Mr. Subrata Monindranath Maity was appointed as Resolution Professional (RP) of CD *vide* order dated 20.08.2020 of the AA.
- 1.2 *Vide* order dated 02.06.2022 of the AA, Mr. Subrata Monindranath Maity was replaced, and Mr. Ajit Kumar was appointed as the RP of CD. Pursuant to such appointment, the new RP- Mr. Ajit Kumar made various communications with erstwhile RP Mr. Subrata Monindranath Maity, for handover of relevant documents/ information relating to CIRP of CD including alongwith login ID and password of CIRP e-mail. Since there was no co-operation on behalf of Mr. Subrata Monindranath Maity, Mr. Ajit Kumar proceeded with filing an application before the AA. Thereafter, the AA *vide* order 13.07.2022, noted the concern of Mr. Ajit Kumar and directed him to expedite the process. Despite this, no co-operation was extended by Mr. Subrata Monindranath Maity. As a result, the AA *vide* order dated 26.07.2022 directed Mr. Ajit Kumar to immediately file a complaint against

Mr. Subrata Monindranath Maity to get the issue resolved regarding handover of documents/ information to new RP. A complaint in this regard was filed by Mr. Ajit Kumar against Mr. Subrata Monindranath Maity, with IBBI.

- 1.3 The Insolvency and Bankruptcy Board of India (IBBI/ Board) in exercise of its powers conferred under Section 218 of the Insolvency and Bankruptcy Code, 2016 (Code) read with Regulation 7(1) and 7(2) of Insolvency and Bankruptcy Board of India (Inspection and Investigation), Regulations, 2017 (Inspection and Investigation Regulations), appointed an Investigating Authority (IA) to conduct investigation against Mr. Subrata Monindranath Maity in the matter of M/s Eskay K'N'IT (India) Limited. Accordingly, a notice under Regulation 8(1) of the Investigation Regulations was issued to Mr. Subrata Maity on 10.10.2022 with a request to clarify the said observations before 19.10.2022. Pursuant to the said notice, reply was filed by Mr. Subrata Monindranath Maity *vide* mail dated 17.10.2022 and 21.11.2022.
- 1.4 The Investigating Authority submitted its investigation report to the IBBI on 28.09.2023. The IBBI perused the investigation report and formed *prima facie* view that Mr. Subrata Monindranath Maity contravened the provisions of the Code and Regulations made thereunder and issued the SCN to Mr. Subrata Monindranath Maity on 17.05.2023. Mr. Subrata Monindranath Maity submitted his reply to the SCN on 28.05.2024.
- 1.5 The IBBI referred the SCN and reply of Mr. Subrata Monindranath Maity to the SCN to the Disciplinary Committee (DC) for disposal of the SCN in accordance with the Code and Regulations made thereunder. Mr. Subrata Monindranath Maity availed opportunity of personal hearing before the (DC) on 14.06.2024. Thereafter, Mr. Subrata Monindranath Maity submitted additional documents on 27.06.2024.
- 1.6 The DC has considered the SCN, the reply to SCN and submissions of Mr. Subrata Monindranath Maity, and proceeds to dispose of the SCN.

2. Alleged Contraventions, Submissions, Analysis and Findings

The contravention alleged in the SCN and Mr. Subrata Monindranath Maity's written and oral submissions thereof are summarized as follows.

3. Contravention: Non-cooperation in handing over the assets and records to the new RP Mr. Ajit Kumar

3.1 It was observed that *vide* order dated 02.06.2022 of the AA, Mr. Subrata Monindranath Maity was replaced by Mr. Ajit Kumar as RP. Pursuant to the said order, Mr. Ajit Kumar, *vide* his email dated 04.06.2022 requested Mr. Subrata Monindranath Maity to handover the relevant documents/ information relating to CIRP of the CD including the minutes of the CoC meeting along with login ID and password of CIRP e-mail. However, Mr. Subrata Monindranath Maity informed *vide* e-mail dated 04.06.2022 that he had challenged the order of AA replacing him and informed that the data of CD is not in his custody. Subsequently, reminder e-mails dated 15.07.2022, 25.07.2022, 16.08.2022, 18.08.2022 and 31.08.2022 were also sent by Mr. Ajit Kumar to Mr. Subrata Monindranath Maity, but the required records/documents were not handed over by Mr. Subrata Monindranath Maity.

3.2 It was also observed that the AA in its order dated 13.07.2022 directed Mr. Ajit Kumar, *inter alia*, to take expeditious steps for taking over the charge of the CD. As Mr. Ajit Kumar did not receive required co-operation from Mr. Subrata Monindranath Maity, he was constrained to file an application before the AA wherein the AA *vide* order dated 26.07.2022 made adverse observations regarding Mr. Subrata Monindranath Maity's conduct as follows:

"Learned counsel appearing for the present RP states that, the erstwhile RP which was replaced, vide order dated 02.06.2022 has not received any cooperation from the erstwhile RP, and no documents, assets, information are handed over to the present RP, hence, he is not able to proceed with CIRP and any of the matters..."

...We are directing the present RP to immediately file a complaint before IBBI with respect to the conduct of the RP and expedite to resolve the issue and take up the matter with CoC also."

3.3 It was further observed that Mr. Subrata Monindranath Maity handed over the documents to Mr. Ajit Kumar on 17.09.2022, after 105 days from the replacement order passed by the AA. It was further observed that Mr. Subrata Monindranath Maity initially expressed his inability to handover the required documents to Mr. Ajit Kumar on the ground that four laptops containing data of all companies in CIRP handled by him were in the custody of the CBI. However, on perusal of various email exchanged among Mr. Subrata

Monindranath Maity, team of Mr. Subrata Monindranath Maity, Mr. Ajit Kumar and team of Mr. Ajit Kumar it was observed that the documents and records required were available with different sources from where Mr. Subrata Monindranath Maity compiled the same and handed over to Mr. Ajit Kumar later even when laptops were still in custody of CBI. These emails also indicate that Mr. Subrata Monindranath Maity delayed handing over the documents for want of payment of his unpaid fees.

- 3.4 Section 23(3) of the Code provides that in case of any appointment of a Resolution Professional under Section 22(4), the IRP shall provide all the information, documents and records pertaining to the CD in his possession and knowledge to the RP. By deliberately causing delay in handing over necessary documents and records to new RP, Mr. Subrata Monindranath Maity caused avoidable delay in the CIRP of the CD.
- 3.5 In view of the above, the Board held the prima facie view that Mr. Subrata Monindranath Maity, *inter alia*, had contravened Sections 23(3) and Section 208(2)(a) of the Code, Regulations 7(2)(a) & (h) of IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations) read with clauses 1, 2, 3, and 12 of the Code of Conduct as specified in the First Schedule of IP Regulations (Code of Conduct).

4. Submissions by Mr. Subrata Monindranath Maity

- 4.1 Mr. Subrata Monindranath Maity stated that allegations stated in the SCN were based on misrepresentation of facts as well as suppression of material information submitted by Mr. Ajit Kumar, being the present RP of the CD. Mr. Subrata Monindranath Maity submitted that the said SCN is initiated on the basis of a purported complaint dated the 05.09.2022. The fact that it was initiated after a period of 8 months from the said date indicates that the complaint as well as the said SCN was issued in a belated fashion, beyond the permissible limitation period under the Regulation and on the basis of incorrect and misleading facts. This submission was made as the preliminary objection.
- 4.2 It was further stated that Mr. Ajit Kumar in its email dated 05.09.2022, made an incorrect and false statement when he went on to state that “.....you declined to handover the said documents only after getting an assurance from the undersigned qua release of your pending fees”. The IA while concluding its report relied upon this uncorroborated statement, instead of considering the fact that the delay in handover of the documents was in fact solely because of all four laptops of the undersigned being in custody of the CBI in another matter concerning him. Despite the said situation, he had time and again

informed Mr. Ajit Kumar through various email communications that in the meanwhile, he would be trying to obtain and accumulate the documents from various other sources. In neither of the emails addressed to the Mr. Ajit Kumar, he made any statement regarding declining to handover the documents pending the clearance of his fees. The physical assets were handed over in August 2022. In view thereof, it was stated by Mr. Subrata Monindranath Maity that the present SCN pursuant to the observations recorded by the IA in its IR, ought to be dismissed as the same is based on false, misinterpreted and erroneous facts and circumstances.

- 4.3 With respect to not handing over the documents/ information along with login and password of CIRP e-mail, Mr. Subrata Monindranath Maity placed on record a factual background concerning the CIRP of the CD. One Mr. Vikas Prakash Gupta was appointed as the IRP vide admission order dated 17.02.2020 passed in CP(IB) No. 420 (MB) of 2018 by the AA. Mr. Subrata Monindranath Maity was thereafter appointed as the RP of the CD vide order dated the 20.08.2020 of the AA in IA/499/2020 filed in the said company petition and is presently the ex-RP of the CD. Mr. Ajit is the present RP of the CD, whose appointment was confirmed by the AA vide its order dated the 02.06.2022 in the matter of IA/466/2022 filed in the said company petition. An application seeking liquidation of the CD was pending for adjudication before the AA. A bare perusal of the email communications clearly stated that there was absolutely no dispute or delay with respect to the handover of the properties of the CD, however, the inconvenience suffered by Mr. Subrata Monindranath Maity towards handover of the documents was simply because of the electronic device containing data was in the custody of the CBI, Pune Branch. That the CBI had searched the office of Mr. Subrata Monindranath Maity on 04.05.2022 and taken away four laptops from his residence and office containing all data of the cases handled by him.
- 4.4 Mr. Subrata Monindranath Maity highlighted that he was the first director of Quantum Resolution Professional Services Pvt Ltd (“Quantum”), a company rendering professional services for CIRP. However, due to certain malpractices carried out by the erstwhile IRP, he resigned from the directorship with effect from the 01.07.2018. One of the creditors of the CD, being Bank of India (“BOI”) issued an appointment letter dated 15.06. 2018 confirming the appointment of the Quantum for rendering its services in the probable CIRP of the CD. At the time of filing of the said petition u/s 7 of the IBC, BOI issued a letter of appointment to Mr. Vikas Prakash Gupta, in his capacity as the

team member/shareholder director & CEO of the company and accordingly on admission, Mr, Vikas Prakash Gupta was appointed as the IRP of the Corporate Debtor.

- 4.5 Mr. Subrata Monindranath Maity submitted that it is evident from the email dated 04.06.2022, that he had clearly informed Mfr. Ajit Kumar that his four laptops containing data of all companies in CIRP handled by him were in the custody of the CBI, ACB, Pune. That an acknowledgement of submission of the application, M.A. No. 242/2022, dated 31.05.2022, seeking release of movable property u/s 457 of the Cr.PC. before the Hon'ble Spl. Judge. CBI, ACB, Pune made for release of the said laptops was also submitted in this regard. A bare perusal of this application makes the situation of the undersigned with the CBI abundantly clear. However, the said application was rejected by the Bench vide order dated the 12.09.2022. Therefore, it was imperative to consider that he was making efforts to obtain the laptops in custody of the CBI from 31.05.2022 to 12.09.2022, but unfortunately, he was unable to obtain an order in his favour. Despite the unfavourable situation, since he had been taking efforts to gather the documents from various sources, it was possible to complete the handover on 17.09.2002. It was submitted by Mr. Subrata Monindranath Maity that his conduct to relentlessly try, to not only obtain the laptops but also navigate other different sources to gather all the data, ought to have been taken into consideration while dealing with the present SCN. Mr. Subrata Monindranath Maity further submitted that as he was handicapped without the laptops, he informed Mr. Ajit Kumar that he could visit his office to avail the details in the meanwhile. Besides, the handover of the physical assets of the CD was being carried out in a systematic manner, as is evident from the email correspondences dated 11.06.2022 and 14.06.2022 between the parties. Till date the CBI has not handed over the possession of the laptops, in fact, the challenge against the case by the CBI is also sub-judice before the Hon'ble Bombay High Court vide Writ Petition No. 2801 of 2022.
- 4.6 It was further submitted that additionally, Quantum was also informed of the same and was requested to assist Mr. Ajit Kumar in providing the documents available with them, pursuant to which an email was addressed by Quantum on 14.07.2022, stating that as they are support service agency for the CD, they are willing to share whatever documents are available with them. This is to show that despite not having the main source containing the documents of the CD, Mr. Subrata Monindranath Maity was making honest attempts to provide the same through various sources. Mr. Subrata Monindranath

Maity submitted that it would be incorrect to attribute that the delay was intentional or out of spite of not receiving fees.

4.7 Mr. Subrata Monindranath Maity further submitted that for the handover of the physical properties of the CD the same was carried out in a time bound and systematic manner, pursuant to the communications exchanged between him and Mr. Ajit Kumar. The list of the Plants of the CD along with the handover dates is as under:

- Plant of the CD situated at Valsad, Gujarat — 29.08.2022
- Plant of the CD situated at Silvassa, U.T. of Dadar & Nagar Haveli — 29.08.2022
- Plant of the CD situated at Bhiwandi, Thane — 30.08.2022
- Plant of the CD situated at Dombivli (E), Thane — 30.08.2022

4.8 With regards to the order dated 13.07.2022 of the AA, it was submitted by Mr. Subrata Monindranath Maity that such order was passed placing reliance on the submissions made by the Advocate appearing for Mr. Ajit Kumar alone, whereby the entire blame was put on Mr. Subrata Monindranath Maity, by portraying him to have acted in defiance of the handover order. On the said date of hearing there was no representation on his behalf to counter the baseless submissions made under the instructions of Mr. Ajit Kumar. As for the order dated 26.07.2022 passed by the AA, wherein Mr. Ajit Kumar's alleged non-corporation by Mr. Subrata Monindranath Maity, it was submitted that the said order was passed simply by placing reliance on the submission made by Mr. Ajit Kumar without giving a fair opportunity of hearing to him. It was further submitted by Mr. Subrata Monindranath Maity that Mr. Ajit Kumar intentionally chose to hide the true facts and circumstances from the AA by not placing on record the persisting situation of Mr. Subrata Monindranath Maity at that time and the reason surrounding the purported delay in handover of the documents. If the same had been brought to the notice of the AA, a direction might have been passed to the CBI to provide the said documents.

4.9 Mr. Subrata Monindranath Maity further submitted that no adverse observations were recorded by the AA against him, rather, a simple direction was passed to take up the matter with the IBBI. Thus, the contention stating that adverse remarks were passed against him under the two orders, is an incorrect statement for the reasons mentioned herein above. Further, IA/245/2022 filed u/s 19(2) of the Code, is pending adjudication before the AA. It was submitted by him that it would therefore only be unjust to initiate any adverse action by placing reliance on these two orders. It was rather the intention of

the AA to direct Mr. Ajit Kumar to take the matter up with the IBBI, in order to look into the handover process with the help of IBBI. Alternatively, it was only in the power of the AA to adjudicate and hold whether there was any intention of delay and non-corporation on his behalf. Mr. Subrata Monindranath Maity vide letter dated 01.08.2022, addressed to Mr. Ajit Kumar had also raised an objection regarding his conduct of misleading the AA during the aforementioned dates of hearing. It was further submitted that the purported complaint dated the 05.09.2022, filed by Mr. Ajit Kumar with the IBBI based on these two orders, is misconstrued and as such ought to have been dismissed at the very outset.

- 4.10 That the handover of the documents of the CD was successfully completed on 17.09.2022. With respect to the contention that despite change of RP he delayed such handover for 105 days, Mr. Subrata Monindranath Maity submitted that he would have handed over the documents to the new RP without any difficulty, in compliance with relevant provisions of the IBC and IBBI regulations, if the laptops of Mr. Subrata Monindranath Maity were not being in custody of the CBI. The purported delay in handover ought to be attributed towards the attempt of the undersigned to navigate the diverse sources and gather the full set of the relevant documents before handover of the same to the new RP. It is submitted that as soon as he was able to do the above, the entire set of documents was handed over to the new RP immediately without any undue delay.
- 4.11 Mr. Subrata Monindranath Maity further submitted that the contention that there was an intentional delay for want of unpaid fees is false, as he is a responsible IP and was aware of the legal recourse available to him to resolve the said issue. Accordingly, an application bearing IA/1049/2022 was filed before the AA, seeking payment of pending fees of Rs. 12.5 lakhs and is presently pending adjudication. As for the emails whereby, the undersigned requested for releasing the unpaid fees, the same was stated out of abundant caution to apprise the present RP of the same and had nothing to do with the time taken in handover of the documents.

5. Written submissions by Mr. Subrata Monindranath Maity

- 5.1 During the course of personal hearing, certain documents were promised to be given by Mr. Subrata Monindranath Maity in support of contentions made by him during the course of hearing. Also, certain documents were promised to be given in response to

queries raised by the DC during the course of hearing. Following queries were asked from RP, Mr. Subrata Monindranath Maity vide email dated 18.06.2024 -

“1) As desired by you and your counsel, please submit the chronology of correspondence with the new RP and Quantum Resolution Professional Services Pvt Ltd, about the handover of assets and records. Please refer to the correspondence giving reference to the page number of pdf file containing such correspondence.

2) During the hearing it was submitted by you that the handover of physical assets of the CD situated at various locations was made to the new RP in a timely manner. You also promised to give the evidence in respect of such handover including handing over/ taking over documents executed by security. Please submit the chronology of the handover of physical assets of CD to the new RP along with evidence in this regard.

3) Please provide the details of any other documents which was provided to the new RP, other than what was available with Quantum Resolution Professional Services Pvt Ltd., along with the source from which the same was obtained.

4) If the facts in the order dated 26/07/2022 have not been recorded correctly by the AA, whether any steps were taken by you to get them corrected or get the order overturned? If so, the evidence in this regard may be submitted.

5) Any other additional document or submission you wish to put before consideration of DC?

- 5.2 Mr. Subrata Monindranath Maity filed written submissions on 27.06.2022 wherein he has provided chronological details of communication between RP, new RP and Quantum. However, he has not stated the source of documents and merely submitted that *“each and every document mentioned on the Handover Letter has been painstakingly collated after extracting from Quantum Resolution Professional Services Pvt Ltd, email IDs and various relevant websites.”* As far as issue with regards to steps taken by Mr. Subrata Monindranath Maity as RP w.r.t. order dated 27.07.2022 is concerned it is submitted, that such order was not a final order in the said application being IA/245/2022, and as such, an appeal from the said order would not have held ground before the Hon’ble NCLAT. In fact, thereafter, IA/245/2022 was deferred on 12.09.2022 as there was already an order of 09.09.2022 passed in IA/730/2022, whereby

the present RP was directed to visit the office of the erstwhile RP on 17.09.2022, on which date the handover of the digital documents was completed.

6. Analysis and Findings.

- 6.1 Initially, Mr. Vikas Prakash Gupta was appointed as IRP of CD, thereafter, Mr. Subrata Monindranath Maity was appointed as RP of CD *vide* order dated 20.08.2020 of the AA. As per the version of Mr. Subrata Monindranath Maity his laptops were taken away by CBI on 04.05.2022, pursuant to which an application bearing Criminal MA No. 242 of 2022 was filed before CBI seeking release of movable property being held by them. In the meantime, before such application could be decided, the AA *vide* order dated 02.06.2022 appointed Mr. Ajit Kumar as new RP of CD. Thereafter, as per submissions of Mr. Subrata Monindranath Maity and various documents placed on record, various communications were made between the parties. It is relevant to analyse each step of trail of communication *inter-se* parties, so as to critically analyse the contentions made against Mr. Subrata Monindranath Maity and his defence against the same. Brief of communication between the parties and its analysis thereof is reproduced hereunder: -

Date	Details of communication	Observations of the DC
04.06.2022	In view of appointment, Mr. Ajit Kumar wrote an email to Mr. Subrata Monindranath Maity wherein asking handover of the documents.	-
04.06.2022	Mr. Subrata Monindranath Maity replied to said email stating that he has challenged the interim order and stating that he will be able to handover the documents, when his laptop gets release from the custody of CBI. He also requested for release of his payment by 09.05.2022.	-
06.06.2022	Mr. Ajit Kumar wrote to Mr. Subrata Monindranath Maity seeking assistance in handover details, ID-password, soft copies and hard copies of documents.	Repeated requests have been made by Mr. Ajit Kumar for handing over of documents/assets.
10.06.2022	Mr. Ajit Kumar wrote to Mr. Subrata	

	Monindranath Maity regarding handover of atleast physical possession of assets of CD along with other details.	
10.06.2022	Mr. Subrata Monindranath Maity replied to above trail of email- <i>“What about my pending fee?”</i>	
11.06.2022	<p>Another email was sent by Mr. Subrata Monindranath Maity to Mr. Ajit Kumar in view of above trail wherein replicating his version regarding custody of laptops with CBI.</p> <p>It is further stated that <i>“some records are available at Quantum (Service Provider) office in Nagpur. You may plan a visit to Nagpur where details available will be provided to you. Please Confirm”</i></p> <p>It was further stated <i>“Please note proper transition can happen on proper justification of fees payable illegally withheld by Mr. Rakesh Garg DGM, Bank of India”</i></p>	<p>Despite repeated requests of Mr. Ajit Kumar after his appointment vide order dated 02.06.2022, Mr. Subrata Monindranath Maity failed to provide any assistance and even vide this email (dated 11.06.2022), he merely referred Mr. Ajit Kumar to connect with Quantum. No efforts was initiated by him for facilitating handover of details from Quantum..</p> <p>Further, Mr. Subrata Monindranath Maity has specified that such transition can happen on proper</p>

		justification of his fees.
14.06.2022	Mr. Ajit Kumar wrote to Mr. Subrata Monindranath Maity acknowledging email dated 11.06.2022 and enquiring about assets and documents regarding Mumbai.	Again enquiry was made by Mr. Ajit Kumar.
14.06.2022	Mr. Subrata Monindranath Maity replied to Mr. Ajit Kumar regarding certain details of handover of assets at Bilad and Silvassa as well as Mumbai. He replicated his version regarding custody of laptops and pendency of fees.	Mr. Subrata Monindranath Maity wrote to new RP for handing over of certain assets.
	ORDER DATED 13.07.2022	
14.07.2022	Email by Quantum to Mr. Ajit Kumar extending requisite co-operation.	As per the version of Mr. Subrata Monindranath Maity Quantum was informed to extend co-operation to new-RP, In this regard such email was sent by Quantum to Mr. Ajit Kumar..
15.07.2022	Mr. Ajit Kumar to Quantum showing concern that no documents/ email id-password has been received.	-
25.07.2022	Mr. Ajit Kumar to Mr. Subrata Monindranath Maity requesting cash flow	-
	ORDER DATED 26.07.2022	
01.08.2022	Mr. Subrata Monindranath Maity addressed another email to Mr. Ajit Kumar wherein raising objection with regards to his conduct while misleading the AA and once again	As per submission of Mr. Subrata Monindranath Maity, despite his

	asking his availability for taking handover of assets of CD.	willingness to handover the physical asset to Mr. Ajit Kumar, misrepresentation was made before the AA regarding non-cooperation on the part of Mr. Subrata Monindranath Maity
16.08.2022	Mr. Ajit Kumar while writing to Mr. Subrata Monindranath Maity, requested for handover of such assets on 27.08.2022- 28.08.2022. Requesting login details and other documents handover.	Again, request was made regarding handover of soft copies of documents as soon as possible.
18.08.2022	Mr. Subrata Monindranath Maity wrote to new RP and Authorised Representative of new RP, Mr. Vikky Dang regarding handover of assets on 29.08.2022 & 30.08.2022. It further wrote that he will be providing the soft copies of available documents.	Scheduling of date for handover of assets of CD. Soft copies of documents is to be provided by RP.
18.08.2022	Mr. Ajit Kumar replied to above email and requesting handover of soft copies of documents as soon as possible.	Again, request was made by Mr. Ajit Kumar for handing over of soft copy of documents.
30.08.2022	After confirmation of timing vide email 26.08.2022, email on behalf of Mr. Subrata Monindranath Maity was sent by one Rupesh.c@subratamaity wherein providing	Handover of four plants of RP. Again, request was

	<p>acknowledgement of handover of four plants of CD and requesting time for sharing soft copies of documents.</p> <p><i>Vide such email, concern regarding pendency of fees was again raised. It was stated that “..... It will take couple of days more before we can handover the soft copies of the documents to you. In the meantime we need a firm communication from you regarding our and the service providers fees during the tenure of IP Subrata Maity which is still not paid. It is more than 3 months since you have taken charge so we need to understand what the banks have informed you regarding their contribution which is due. By what time they will pay their contribution and by when you will pay us and the service providers outstanding fees.”</i></p>	<p>made by new RP for handing over of soft copy of documents.</p> <p>Issue of fees was raised again.</p>
31.08.2022	<p>Mr. Ajit Kumar relied to email dated 30.08.2022 on behalf of Mr. Subrata Monindranath Maity, providing that the issue regarding fees has been intimated to the CoC and fees have been made part of the CIRP cost. He further stated that <i>“Moreover, upon your assurance the undersigned had sent his Authorised Representative, viz. Mr. Vikky Dang, (from Gurgaon office) but you declined to hand over the documents/ information of the corporate debtor to him and further stated that you will handover the said documents only after getting an assurance from the undersigned qua release of your pending</i></p>	<p>Despite assurance by Mr. Subrata Monindranath Maity, and visit of Authorised Representative on behalf of Mr. Ajit Kumar; no documents were handed over and such handing over of documents was made contingent to payment of his fees.</p>

	<i>fees.”</i>	
31.08.2022	<p>Mr. Subrata Monindranath Maity replied to the trail of email and stated Mr Ajit Kumar instead of trying to answer his questions, rather is trying to threaten him. He further stated that he is trying to gather the information and it will take couple of days in compiling the same.</p> <p><i>“You are just threatening me about non compliance.</i></p> <p><i>You are not answering my question</i></p> <p><i>Why are the bankers not paying their share?</i></p> <p><i>As I have told you earlier I don't have any records as all my computers are in CBI custody.</i></p> <p><i>I am trying to help you by gathering data from different sources.</i></p> <p><i>Collection of data will take time as they are not readily available it will take a couple of days more to compile.</i></p> <p><i>Once gathered and available you will be informed</i></p> <p><i>Please don't try to threaten”</i></p>	Till date no documents/ information was handed over to Mr. Ajit Kumar.
31.08.2022	<p>Mr. Ajit Kumar replied to the trail wherein stating <i>“Furthermore, vide your email dated 18.08.2022 wherein you have categorically stated you will supply all the requisite information in pendrive to our Authorised Representative and further vide email dated 20.08.2022 you gave an implied assurance to the undersigned that you will handover the same. However, you failed to do so.”</i></p>	Concern was raised by Mr. Ajit Kumar regarding handing over of the documents.
	<i>Handover of documents was completed on 17.09.2022</i>	

6.2 The DC notes that various communication from time to time starting from 04.06.2022 have been made by Mr. Ajit Kumar seeking handover of documents, login ID-passwords details, however, it was on 18.08.2022 specifically, when Mr. Subrata Monindranath

Maity informed that he has soft copies of some documents. This arise various issue for consideration before DC- i) How these documents to be handed over were obtained as the documents had not been obtained from CBI? ii) Whether these documents could have been handed over earlier? iii) Whether attempt was made by Mr. Subrata Monindranath Maity to link the handover of records to his fee? iv) Whether adverse observations of NCLT in respect of handover is challenged anytime by RP if they were not representing the true situation?

- 6.3 Coming to the foremost issue, how these documents are obtained, the DC notes that despite specific query to Mr. Subrata Monindranath Maity *vide* email dated 18.06.2024 wherein he was asked to provide source of documents, he merely provided that “*each and every document mentioned on the Handover Letter has been painstakingly collated after extracting from Quantum Resolution Professional Services Pvt Ltd, email IDs and various relevant websites*”. He failed to inform source of documents. If this would have been the scenario, details of email as well as details available with the Quantum, were already in picture even on the first date of communication between Mr. Ajit Kumar and Mr. Subrata Monindranath Maity. However, the same has not been done. No documents/ details / even the login details and password were provided to Mr. Ajit Kumar.
- 6.4 This further gave rise to another question, if such documents are being taken from Quantum, whether any efforts were earlier made by Mr. Subrata Monindranath Maity in getting these documents from Quantum. In email dated 11.06.2022, Mr. Subrata Monindranath Maity informed the new RP about the availability of documents with Quantum and stated that “*some records are available at Quantum (Service Provider) office in Nagpur. You may plan a visit to Nagpur where details available will be provided to you. Please Confirm,*” but no steps appear to have been taken by Mr. Subrata Monindranath Maity for connecting Quantum with the new RP or instructing it to handover the documents to new RP.
- 6.5 Another issue before the DC is whether these documents could have been handed over earlier? DC raised a specific query to Mr. Subrata Monindranath regarding source of documents that were shared with Mr. Ajit Kumar on later stage, i.e., on 17.09.2022. The DC noted that Mr. Subrata Monindranath Maity refrained from providing source of information and stated that such information was taken from Quantum as well as email, Mr. Subrata Monindranath Maity has failed to list any other source of information other

than information available with Quantum and information available on his email. In respect of both these sources, the information could have been accessed earlier also and was well within his ambit and reach. However, no sincere efforts have been made by him in this regard.

- 6.6 Other point to be considered by DC is if such information was accessible earlier, why such handover was delayed or whether any attempt was made by Mr. Subrata Monindranath Maity to link the handover of records to his fee? The answer to this question is in affirmative. Mr. Subrata Monindranath Maity, at many times requested Mr. Ajit Kumar regarding pendency of his fee *vide* emails dated 04.06.2022, 10.06.2022, 11.06.2022, 16.08.2022, 30.08.2022 and 31.08.2022. Further, in email dated 11.06.2022, Mr. Subrata Monindranath Maity addressing to Mr. Ajit Kumar, has categorially stated that “*Please note proper transition can happen on proper justification of fees payable illegally withheld by Mr. Rakesh Garg DGM, Bank of India*”; indicating dependency of smooth transition of documents on clearance of his fees. Similarly, Mr. Ajit Kumar in his email communication dated 31.08.2022 has stated that despite specific assurance by Mr. Subrata Monindranath Maity regarding handing over of such documents, when approached by Authorised Representative of Mr. Ajit Kumar on 30.08.2022, documents were not handed over by Mr. Subrata Monindranath Maity on the ground that such handover could be only initiated after assurance on part of Mr. Ajit Kumar regarding payment of his fees. This has not been denied by Mr. Subrata Monindranath Maity in reply email dated 31.08.2022. Further, in his reply email dated 31.08.2022, Mr. Subrata Monindranath Maity has again asked why the bankers are not paying their share. It emerges from the email correspondence that Mr. Subrata Monindranath Maity was linking the handover of records to the payment of fees and was delaying the process of handover with an intent to get his fees paid first. Even after, orders of the AA having adverse observations about him, there has been delay in handover of documents and concern regarding payment of fees has been raised again and again. This has affected the CIRP of the CD due to his self-interest.
- 6.7 Hence, DC is of the view that Mr. Subrata Monindranath Maity had, *inter alia*, violated the provisions of Section 23(3) and Section 208(2)(a) of the Code, Regulations 7(2)(a) & (h) of IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations) read with clauses 1, 2, 3, and 12 of the Code of Conduct as specified in the First Schedule of IP Regulations (Code of Conduct).

7. Order

- 7.1 In view of the forgoing discussion, the DC finds Mr. Subrata Monindranath Maity in contravention of Section 23(3) and Section 208(2)(a) of the Code, Regulations 7(2)(a) & (h) of IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations) read with clauses 1, 2, 3, and 12 of the Code of Conduct as specified in the First Schedule of IP Regulations (Code of Conduct).
- 7.2 The DC, in exercise of the powers conferred under Section 220 of the Code read with Regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 and Regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016 hereby suspends the registration of Mr. Subrata Monindranath Maity having Registration No. IBBI/IPA-001/IPP00884/2017- 18/11481 for a period of two years.
- 7.3 This Order shall come into force after 30 days from the date of issuance of this order.
- 7.4 A copy of this order shall be sent to the CoC/Stakeholders Consultation Committee (SCC) of all the corporate debtors in which Mr. Subrata Monindranath Maity is providing his services, and the respective CoC/SCC, as the case may be, will decide about continuation of existing assignment of Mr. Subrata Monindranath Maity.
- 7.5 A copy of this order shall be forwarded to the ICAI Institute of Insolvency Professionals where Mr. Subrata Monindranath Maity is enrolled as a member.
- 7.6 A copy of this Order shall also be forwarded to the Registrar of the Ahmedabad Bench of the National Company Law Tribunal.
- 7.7 Accordingly, the show cause notice is disposed of.

Sd/-

(Sandip Garg)

Whole Time Member

Insolvency and Bankruptcy Board of India

Sd/-

(Jayanti Prasad)

Whole Time Member

Insolvency and Bankruptcy Board of India

Dated: 09 August 2024

Place: New Delhi