

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Disciplinary Committee)

No. IBBI/DC/250/2024

22 October 2024

ORDER

This Order disposes of the Show Cause Notice (SCN) No. COMP-11012/168/2023-IBBI/113 dated 29.02.2024, issued to Mr. Rattan Chaudhry, resident of F-86 Tekhand, New Delhi, National Capital Territory of Delhi, 110020- (herein referred as “IP”) who is a Professional Member of ICSI Institute of Insolvency Professionals and an Insolvency Professional registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with Registration No. IBBI/IIPA-002/IP-N00325/2017-2018/10930).

1. Background

- 1.1 The initiation of CIRP of M/s. Classic Bottle Caps Private Limited (CD) was ordered by the Hon’ble National Company Law Tribunal, New Delhi Bench (AA) vide order dated 13.02.2020 and IP, Mr. Rattan Chaudhry was appointed vide the same order as the IRP.
- 1.2 The AA vide order dated 21.08.2023 made following observations against Mr. Rattan Chaudhry in conduct of the said assignment before the AA:

“25. Lastly, this Adjudicating Authority vide order dated 13.02.2020 initiated the CIR process against the Corporate Debtor and appointed Mr. Rattan Chaudhry IP (IBBI/IIPA-002/IP- N00325/2017-2018/10930) as IRP of the CD. Subsequently, on the recommendation of COC, he was replaced by Mr. Subhash Kumar Kundra as RP vide order dated 11.06.2020 of this Adjudicating authority. Mr. Subhash Kumar Kundra/the Applicant herein, who took over the charge of the CD on 18.06.2020, as noted in para 6.3 above, has stated that “....during a visit on 18.06.2020, the Applicant/RP observed nearly 70 workmen working at the plant of the Corporate Debtor situated at Palwal. On inquiry about the work being performed at the plant, the Promoters shared a copy of the agreement dated 01.04.2019 between CD and R3 on 22.06.2021. which was unsigned and unstamped. No board resolution could be provided by the Promoters.” It is not clear how and under what circumstances, the plant premises of the CD continued to be utilized by the promoters/suspended Directors despite the CD already being into CIRP since 13.02.2020 and under the control of IRP for a period of more than 04 months. Let IBBI enquire into the matter after providing the due opportunity of hearing to the IRP and take action, as deemed appropriate if required.”

- 1.3 The Board in the exercise of its powers under Section 218 of the Code, read with Regulations 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 investigate into the matter of the observations and working the CIRP of the CD. The IA served a notice of investigation upon the IP Mr. Chaudhry as per Regulation 8(1) of the Inspection and Investigation Regulations, on 31.10.2023. In response to the said notice of investigation, Mr. Rattan Chaudhry submitted his reply vide e-mail dated 16.11.2023.

- 1.4 Therefore, based on the findings of the investigation as mentioned in the Investigation Report submitted by the IA, the IBBI issued the SCN to the Mr. Rattan Chaudhry on 29.02.2024. The SCN alleged contraventions of several provisions of the Code, the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 (CIRP Regulations) and the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations). The reply of Mr. Rattan Chaudhry on the SCN was received by the Board on 24.03.2024.
- 1.5 The SCN, response of Mr. Rattan Chaudhry to the SCN and other materials available on record were referred to the Disciplinary Committee (DC) for disposal of the SCN. He availed an opportunity of a personal hearing before the DC on 08.10.2024.

2. Alleged Contraventions, Submissions of IP and Findings

The contraventions alleged in the SCN, submissions by Mr. Rattan Chaudhry and findings of the DC are summarized as follows:

2.1 Failure to take control and custody of CD

Alleged Contraventions

- 2.1.1 Mr. Rattan Chaudhry, was appointed as the IRP. Thereafter, in the 2nd CoC meeting, he was replaced, and Mr. Subhash Kundra was appointed as the RP. The following submission of Mr. Subhash Kumar Kundra, Resolution Professional (RP) in the CIRP of the CD, has been recorded in AA's order dated 21.08.2023:

“6.3 CIRP was initiated on 13.02.2020 and Mr. Rattan Chaudhry (IBBI/IIPA- 002/IP-N00325/2017-2018/10930) was appointed as IRP. Subsequently, the Applicant, who was appointed RP on 11.06.2020, took over the charge of the CD on 18.06.2020. During a visit on 18.06.2020, the Applicant observed nearly 70 workmen were working at the plant of the CD situated at Palwal. On inquiry about the work being performed at the plant, the Promoters/Ex-directors shared a copy of the alleged Agreement dated 01.04.2019 between CD and R3 on 22.06.2020 which was unsigned and unstamped. No board resolution could be provided by the Promoters.

6.4 Till the date of taking over charge by the Applicant, the operations at the CD's plant situated at Palwal were going on, there was an outstanding liability of GST of Rs.6,72,640/- and Electricity charges of Rs.4,49,061/- for the period from the commencement of CIRP till 11.06.2020. It is pertinent to mention that though liabilities were being incurred in the

name of CD, no money flew into the bank account of the CD for any work performed from the commencement of CIRP till the date of taking over charge by the Applicant.”

- 2.1.2 Taking the above submission of the RP into account, AA has made observations as mentioned in the concluding para 25 as under: -

”25. Lastly, this Adjudicating Authority vide order dated 13.02.2020 initiated the CIR process against the Corporate Debtor and appointed Mr. Rattan Chaudhry IP (IBBI/IIPA-002/IP- N00325/2017-2018/10930) as IRP of the CD. Subsequently, on the recommendation of COC, he was replaced by Mr. Subhash Kumar Kundra as RP vide order dated 11.06.2020 of this Adjudicating authority. Mr. Subhash Kumar Kundra/the Applicant herein, who took over the charge of the CD on 18.06.2020, as noted in para 6.3 above, has stated that “during a visit on 18.06.2020, the Applicant/RP observed nearly 70 workmen working at the plant of the Corporate Debtor situated at Palwal. On inquiry about the work being performed at the plant, the Promoters shared a copy of the agreement dated 01.04.2019 between CD and R3 on 22.06.2020 which was unsigned and unstamped. No board resolution could be provided by the Promoters.” It is not clear how and under what circumstances, the plant premises of the CD continued to be utilised by the promoters/suspended Directors despite the CD already being into CIRP since 13.02.2020 and under the control of IRP for a period of more than 04 months. Let IBBI enquire into the matter after providing the due opportunity of hearing to the IRP and take action, as deemed appropriate if required.”

- 2.1.3 It was further observed that in the reply to IA in response to a notice of investigation, Mr. Rattan Chaudhry did not deny his submission recorded in AA’s order dated 21.08.2023. It is, thus, inferred that though the unit of CD at Palwal was operational post initiation of CIRP, Mr. Rattan Chaudhry was oblivious regarding the quantum of work being carried out there, on whose behalf the work was being undertaken, flow of money on account of such operation etc. The facts and circumstances as observed in AA order show the continuance of the CD in custody and control of the promoters despite the commencement of CIRP, which is further reflective of inaction and lethargic indifference on part of Mr. Rattan Chaudhry as IRP in the CIRP of the CD.

- 2.1.4 Section 18(d) of the Code requires an IRP to monitor the assets of the corporate debtor and manage its operations until a resolution professional is appointed by the committee of creditors. Further, Section 18(f) of the Code requires an IRP to take control and custody of any asset over which the corporate debtor has ownership rights as recorded in the balance sheet of the corporate debtor, or with information utility or the depository of securities or any other registry that records. Clause 14 of the Code of Conduct provided under Regulation 7(2)(h) of Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 (Code of Conduct) mandates an Insolvency Professional must not act with mala fide or be negligent while performing its functions and duties under the Code.

- 2.1.5 In view of the above, the Board was of the *prima facie* view that Mr. Rattan Chaudhry have contravened the provisions Section 18(d) and (f) of the Code, Section 208(2)(a) and (e) of the Code, Regulation 7(2)(h) of the Insolvency Professionals Regulations read with Clauses 1, 2,9 and 14 of the Code of Conduct specified in the IP Regulations.

Submissions by the IP

- 2.1.6 Mr. Rattan Chaudhry submitted that the RP, Subhash Kundra applied to Sections 45, 49 and 66 of the Code against respondents comprising of two directors of the suspended board of the CD and another two entities. It is to be noted that Mr. Rattan Chaudhry was neither a party in the said application in any capacity nor had been impleaded thereafter. The subject order dated 21.08.2023 has been passed wherein an observation has been made about him, was without giving any opportunity of being heard.
- 2.1.7 Mr. Rattan Chaudhry submits that from the website of NCLT, the aforesaid application I.A. No. 3316/2020 was listed on 21 occasions and was heard on 7 dates before the order was passed on 21.08.2023. If the Hon'ble Adjudicating Authority had issued notice to him and given an opportunity to clarify the aspect on which the observation has been made against him, he would have clarified and given the ground reality and factual aspects at that time. This is against the principle of natural justice.
- 2.1.8 Mr. Rattan Chaudhry submits towards the para 6.3 of the aforesaid NCLT order, it submits that the applicant, who was the RP and successor (Subhash Kundra), was very well aware of the ground reality of the matter and had not made any contention/insinuation / allegation against Mr. Rattan Chaudhry and had not even arrayed him as a respondent. However, the Hon'ble Adjudicating Authority relied upon the aforesaid submission of the applicant / RP and made the said observation in para 25 of the order.
- 2.1.9 IRP submits that he was always conscious of and had endeavoured to take over possession / control the assets of the CD. He had received the NCLT order dated 13.02.2020 of his appointment as IRP on 28.02.2020, and the very next day, the undersigned had addressed a letter to the Board of Directors of the CD. With this aspect in view, Mr. Rattan Chaudhry had asked for, inter-alia, details of offices and branches, the fixed assets register and details of business operations of the CD.
- 2.1.10 Mr. Rattan Chaudhry submits his bona fide intention of taking custody and control of the assets of CD by submitting information about his visit to the registered office in New Delhi as well as the Palwal unit. He made two visits. The same is also clear from para-No. 7 of the minutes of the second meeting of the Committee of Creditors held on 01.06.2020. The same demonstrates not only the intention but also the efforts made by the undersigned for taking control and custody of the assets of the CD.
- 2.1.11 Further it was submitted that on the visit on 04.03.2020, Mr. Rattan Chaudhry found the plant to be functioning with a good number of workers engaged therein. For preserving

and safeguarding the assets of the CD in the said works unit, when taking control / custody, appropriate security was required to be deployed for replacing the existing security guards earlier deployed prior to CIRP commencement by the ex-management. Accordingly, Mr. Rattan Chaudhry had selected a security agency for deploying security guards, which required CoC approval. The matter of appointing security guards was raised in the first meeting of the CoC held by virtual mode through video conferencing on 27.03.2020. In the said meeting, the sole financial creditor of the CoC, namely City Union Bank Ltd. had not approved the security arrangement proposed by the undersigned IRP and had advised to instead deploy the security agency being used by the bank. It was recorded in para 6 of the minutes dated 29.03.2020 of the first meeting of the Committee of Creditors held on 27.03.2020.

2.1.12 All the important initial steps were taken as under: -

1. NCLT order of appointment as IRP received - 28.02.2020.
2. Public notice inviting claims published on - 02.03.2020.
3. Last date for claims submission - 13.03.2020.
4. CoC constituted on - 20.03.2020.
5. First CoC meeting held on - 27.03.2020.

2.1.13 Due to non-approval by the CoC, security agency could not be engaged, security guards could not be deployed. Without security deployment, it was neither advisable nor desirable to take control and custody of the assets of the CD. Accordingly, Mr. Rattan Chaudhry contacted M/s Eagle Claw Security and Management Services, the security agency suggested by the CoC and sought their quote. This agency by their email of 31.03.2020 conveyed their inability to provide security services in Palwal, the location of the unit of the CD.

2.1.14 Mr. Rattan Chaudhry further submitted that, around the middle of March 2020, the pandemic Covid-19 had started spreading in the NCR area including Delhi and curbs were being initiated by the Government of NCT of Delhi as well as Central Government. The same was followed by complete lockdown announced on 24.03.2020, initially for 21 days and was extended from time to time. Due to this reason, no active steps could have been initiated for taking over control / custody of the assets of the CD, more so as the same were in the State of Haryana. He submitted that it is a matter of official records that inter-state travel was completely stopped, and it was not possible for anybody to travel from Delhi to Noida / Ghaziabad in U.P. and to Gurgaon / Faridabad in Haryana, even though they are in proximity of Delhi and are part of NCR region. The work units of the CD being located in Haryana, it was not possible to travel to Haryana for any activity, including for taking over such assets. The strict lockdown imposed from 25.03.2020 had resulted in complete cessation of all types of activities other than essential services. Accordingly, no further action could be taken for selecting another security agency with the approval of CoC for deploying our security guards in the unit of the CD, before taking control and custody. The

- lockdown was extended from time to time, second phase from 15.04.2020 to 03.05.2020, third phase from 04.05.2020 to 17.05.2020 and fourth phase from 18.05.2020 to 31.05.2020. He submitted that in his capacity as IRP, he had sent an exhaustive email on 30.05.2020 to the sole member of CoC, conveying the consequences and fallout of lockdown on CIRP process.
- 2.1.15 Furthermore, the CoC in the first meeting on 27.03.2020 had decided to replace the undersigned IRP with Mr. Ankit Kumar Goel an Insolvency Professional and City Union Bank, the sole CoC member was authorised to file the necessary application to NCLT in this regard, as per agenda item
- 2.1.16 Thereafter, the second meeting of the CoC was convened virtually on 01.06.2020. In this second meeting, the sole member had conveyed that they are proposing to appoint Mr. Subhash Kumar Kundra as the RP instead of Mr. Ankit Kumar Agarwal proposed in the first meeting on 27.03.2020, as Mr. Agarwal had expressed his inability to take up the assignment. A resolution was passed for the same and City Union Bank was authorised to file the necessary application.
- 2.1.17 With the ease in restrictions towards covid, Mr. Rattan Chaudhry submitted that he had appointed 2 security guards and deployed them to the manufacturing unit of the CD for protecting its assets and also for taking over the control / custody thereof. The director of the suspended board of the CD conveyed by his email dated 08.06.2020 that due to current COVID-19 pandemic, they should continue with the previous guards on roll due to the risk of new infections from unknown source on account of new hiring.
- 2.1.18 Mr. Rattan Chaudhry has briefly mentioned that the plant of the CD was in operation, it was functioning, and the CD was in the nature of a 'going concern', the same status was to be maintained in terms of section 20 of the Code. Due to CoC not approving the proposed security arrangement, the control of the running unit could not have been taken. On the other hand, the option of putting locks on the running unit for taking control / custody in the absence of security arrangement could also not be exercised, as the same would have resulted in shutting the operations of the CD as a going concern and could have also created a law & order situation by the workers employed there. He submitted that in normal situation, he would have been able to effectively monitor the assets of the CD and would have been able to manage its operations, but for the extreme circumstance of lockdown. In normal situation, Mr. Rattan Chaudhry would also have been able to take control and custody of the assets of the CD over which it has ownership rights.
- 2.1.19 Mr. Rattan Chaudhry submits at the end that this was his first assignment and has bona fide completed his actions. No prejudice or loss has been caused in the Corporate Insolvency Resolution Process of the CD / to the CD due to inability to take full control and custody of the plant of the CD, for cogent reasons explained above. Further, CIRP is a complicated process, especially when having inter-state manufacturing activity, which

was in working condition. It was not a case that the Mr. Rattan Chaudhry would have consciously taken this process by giving consent to the OC.

Analysis and Findings of the DC

2.1.20 Section 18 of the Code lays down the duties of an IRP. The Core duties of IRP include protecting and preserving the property of the CD, and for doing so, the IRP is bound to take the control and custody of the property, assets, records and other material of the CD. It has been an admitted fact that the IRP was not able to take the control and custody of the assets and property of the CD. The IRP submitted that due to the various incapacibilities including the pandemic, he could not take the possession and control over the property and assets of the Cd. IRP is required not only to make visit to the various key locations of the CD, but also take control of records and assets, to ensure security and safety of the assets and supervise the operations of the CD.

2.1.21 Following defences have been taken by the IRP for not being able to take control and custody of the assets of the CD:-

- A. After taking control of the assets of the CD, security guards deployed by ex-management were required to be replaced for safeguarding the assets of the CD. Deployment of the security agency selected by the IP required CoC approval which was not granted by CoC. Instead, IP was asked by CoC to deploy the security agency being used by the bank which refused to provide security services in Palwal.
- B. Covid 19 had impacted the country which resulted in nationwide lockdown and restricted movement across the borders. Therefore, he could not take control and custody of assets due to his inability to make visits to the premises of CD.
- C. The order of NCLT dated 21.08.2023, which has been made the ground for investigation by IBBI, has been questioned by the IRP stating that an observation was made against him without even giving him an opportunity to be heard, which is a violation of the principle of natural justice.
- D. Various benches of Hon'ble NCLT had been allowing the applications of IPs for exclusion of lockdown period of 97 days from 25.03.2020 to 30.06.2020 for computing the periods of CIRP in terms of regulation 40C of the CIRP Regulations. Hence, this period should not be considered for counting delay in taking custody of assets.
- E. He has also taken following grounds as extenuating factors on without prejudice basis:-
 - (a) No prejudice or loss was caused in the CIRP of the CD due to his inability to take full control and custody of the plant of the CD.
 - (b) It was the first CIRP process being carried out by Mr. Rattan Chaudhry.

- (c) It was not a case that Mr. Rattan Chaudhry had consciously taken this assignment by giving consent to the OC who had initiated the section 9 petition. The AA appointed him from the panel.

2.1.22 Various defences and grounds taken by IP have been thoroughly examined by the DC based on material on record and in terms of the provisions of the Code and Regulations. The discussion on the same is recorded in the following para: -

- A. As regards the ground of not being able to take control of the assets of the CD because of non-appointment of a new agency, it will be useful to analyse the provisions of the Code in this regard.

Section 17 (1) of the Code provides that **from the date of appointment of IRP**, (a) the management of the affairs of the CD shall vest in the interim resolution professional, (b) the powers of the board of directors or the partners of the corporate debtor, as the case may be, shall stand suspended and be exercised by the interim resolution professional, (c) the officers and managers of the corporate debtor shall report to the interim resolution professional and provide access to such documents and records of the corporate debtor as may be required by the interim resolution professional.

Section 18(d) of the Code mandates the IRP to monitor the assets of the corporate debtor and manage its operations until an RP is appointed by the committee of creditors.

Further Section 19(1) of the Code mandates the personnel of the corporate debtor, its promoters or any other person associated with the management of the corporate debtor to extend all assistance and cooperation to the interim resolution professional as may be required by him in managing the affairs of the corporate debtor.

On perusal of the above provisions of the Code, it is evident that for taking control and custody of the assets of the CD, it is not required to change the existing security guard or take approval of the CoC for appointing new set of security guards. From the date of appointment as IRP, all the persons associated with the control and custody of the CD are required to report to the IRP, including the security guards, working at the premises of the CD. If the contention of the IP is accepted, then it will not be possible to take custody and control of the assets and records of the CD only after the first CoC meeting. This is not the intention of the Code as evident from the provisions brought out above. Hence contention of Mr. Rattan Chaudhry at point no. (A) is not tenable. In this case, when the IP visited the premises of the CD for the first time, he found the 70 workmen working and even then, he did not take any steps to control the operations and to inquire as to who is going to benefit from this work. This lack of curiosity is quite strange and raised doubts about his functioning.

- B. As regards the defense on the ground of Covid-19, it has been admitted by Mr. Rattan Chaudhry that the admission order dated 13.02.2020 was received by him on

28.02.2020 and he visited the premises of the CD on 29.02.2020, 04.03.2020 and 19.03.2020. The lock-down due to covid was imposed on 25.03.2020. Hence Mr. Rattan Chaudhry, when first visited the premises of the CD on 29.02.2020, when there was no lock-down and he could have very well taken control and custody of the assets of the CD. In fact, control and custody of the assets of the CD vests in the IRP from the date of the admission order passed by the AA and the Mr. Rattan Chaudhry should have taken all required steps for taking effective control and custody of the assets of the CD on the very first day of his visit to the premises of the CD. Hence the contention of Mr. Rattan Chaudhry at point no.(B) above is not tenable.

C. As regards the ground of no opportunity being afforded by NCLT, it is seen that Mr. Rattan Chaudhry has not taken any steps to appeal the order which was the natural course of action if he was aggrieved by the order of the AA dated 21.08.2023. Besides, the order of NCLT is merely a starting point to enquire as to under what circumstances the plant and machinery of the CD continued to be utilised by the promoters/ directors of the suspended board of the CD, despite the CD already being into CIRP since 13.02.2020 and under the control of IRP. At the time of making adverse observations against the IRP, whether the IRP was given the opportunity of being heard or not has no bearing on the proceedings before the DC. The IA had provided Mr. Rattan Chaudhry adequate opportunity to file the reply and all the details and further, DC has also provided due opportunity of hearing to Mr. Rattan Chaudhry to present his case. All his submissions made during investigation proceedings and disciplinary proceedings have been duly considered. Therefore, the ground of not being provided opportunity before the NCLT does not affect the DC proceedings. Before the DC, finding fault with the order passed by the AA cannot be entertained.

D. As regards the ground of exclusion of time of lock-down due to Covid 19 while taking control and custody of the assets of the CD, the DC finds that the Regulation 40 C of the CIRP Regulation has no application in the present case as before the imposition of the lock-down, Mr. Rattan Chaudhry had approximately one month time with him for taking control and custody of the assets of the CD. It is not the case of Mr. Rattan Chaudhry that during the said period of one month, he could not take control and custody of the assets of the CD due to non-cooperation from the members of the suspended board of the CD. Hence, the contention of Mr. Rattan Chaudhry as mentioned in point 4 above, cannot be accepted.

E. Various grounds taken on no prejudice basis have been considered as under:-

a) As regards the ground that no prejudice was caused to the CD due to his not taking control and custody of the assets of the CD, the DC notes that during the tenure of approximately four months, during which Mr. Rattan Chaudhry was IRP, operations were going on at the premises of the CD due to which GST liability of Rs.6,72,640/- and Electricity charges of Rs.4,49,061/- was made on the account of the CD but there

was no credit during that corresponding period in the account of the CD. The remittances were also not reported during the period when the functioning of CD was going on. This caused diversion of funds of the CD and therefore, monetary loss was caused as was pointed by the AA clearly in its order. This is the reason the AA ordered the promoters to return the money that belonged to the CD. Hence contention of Mr. Rattan Chaudhry that no prejudice was caused to the CD due to not taking control and custody of the assets of the CD is far from truth. In fact, the very fact of misuse of the resources of the CD for the benefit of the ex-management was the reason the AA asked IBBI to look into the issue.

b) Though, he has stated in the written reply that it was his first assignment, during the course of personal hearing, he stated that it was his first and last assignment. The DC notes that the submission of Mr. Rattan Chaudhry is not correct. On 30.07.202 Mr. Rattan Chaudhry was appointed as IRP for the CD Big-Ben Developers Private Limited and further on 03.07.2024, he was appointed as IRP for the CD Silver Jubilee Motors Limited. Such submission of wrong facts before the DC is not acceptable from an Insolvency Professional. Besides, the IP is supposed to be quite clear even in his first assignment about basic provisions which require that the control of the assets of the CD is to be taken immediately and the management of the whole CD along with its employees etc. vests in the IP on his appointment.

c) As regards the defense of Mr. Rattan Chaudhry that he had not taken this assignment by giving consent to the OC but had been appointed by the AA from the panel, the DC notes that it is true that Mr. Rattan Chaudhry was appointed as IRP from the list of IPs provided by the IBBI. But the fact remains that for being in the list of IPs, prepared by IBBI and shared with the AA, the Insolvency Professional gives consent to take the assignment if appointed by the AA. For the inaction on the part of the IP, the concerned IP cannot take a defense that he was appointed by the AA from the panel and he had not given consent to the FC or OC for being appointed as IRP/RP. Such contention of Mr. Rattan Chaudhry cannot be accepted as it will make all the IPs who are appointed from the list of IPs given by IIBI immune from disciplinary proceedings.

2.1.23 The act of the IRP in not taking control and custody of the assets of the CD shows gross negligence on the part of the IRP. Hence the DC holds the contravention.

3. Order

3.1 When the AA admits a CD into the CIRP by passing an admission order and appoints an IRP, the IRP so appointed is required to take control and custody of the assets of the CD immediately and the management of the CD along with its employees etc. vests in the IRP on his appointment. Any delay on the part of IRP in performing such a duty causes loss to the CD as the promoters/ directors of the suspended board of the CD may siphon off the assets of the CD, causing harm to the interest of the stakeholders. This is what has

- happened in the instant case. During the tenure of approximately four months of the IRP, the assets of the CD was used burdening the CD with dues of GST, electricity charges, while no corresponding credit of revenue of these efforts came to the account of the CD, which happened due to the gross inaction on the part of the IRP.
- 3.2 Further, the control and custody of the CD can very well be taken with the existing security and if any work is going on at the premises of the CD, the IRP must ensure that all the proceeds of such work is deposited in a particular designated account, controlled and supervised by the IRP. The IRP in the instant case failed to take any such action.
- 3.3 The lockdown due to Covid had been imposed approximately one month after the appointment of Mr. Rattan Chaudhry as IRP and during this period of one month he visited the premises of the CD thrice. Thereafter taking defense that due to the lockdown imposed, he could not take control and custody of the assets of the CD is a lame excuse.
- 3.4 In view of the foregoing and considering the gross negligence on the part of Mr. Rattan Chaudhry, 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 authorisation for assignment of Mr. Rattan Chaudhry having Registration No. IBBI/IIPA-002/IP- N00325/2017-2018/10930 for a period of 2 years.
- 3.5 This Order shall come into force on expiry of 30 days from the date of its issue.
- 3.6 A copy of this order shall be forwarded to the Indian Institute of Insolvency Professionals of ICSI where Mr. Rattan Chaudhry is enrolled as a member.
- 3.7 A copy of this order shall be sent to the CoC/ Stakeholders Consultation Committee (SCC) of all the Corporate Debtors in which Mr. Rattan Chaudhry is providing his services, and the respective CoC/ SCC, as the case may be, will decide about continuation of existing assignment of Mr. Rattan Chaudhry.
- 3.8 A copy of this order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal, New Delhi, for information.
- 3.9 Accordingly, the show cause notice is disposed of.

Sd/-
(Sandip Garg)
Whole Time Member, IBBI

Dated: 22nd October 2024

Place: New Delhi