NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1160 of 2026 & I.A. No. 4509 of 2026

(Arising out of the Order dated 16.06.2026 passed by the Disciplinary Committee of the Insolvency and Bankruptcy Board of India, Bearing No. IBBI/DC/327/2026)

IN THE MATTER OF:

Mr. Sanjay Gupta
Insolvency Professional
Registration No. IBBI/IPA-001/IP-P00117/2017-18/10252
Resolution Professional in the matter of
M/s Unnati Fortune Holdings Ltd.
Having its office at E- l0A, LGF, Kailash Colony,
New Delhi- 110048 **…Appellant**

Versus

Insolvency and Bankruptcy Board of India (through its Disciplinary Committee)
7th Floor, Mayur Bhawan Connaught Place
New Delhi- 110001 **…Respondent**

Present

For Appellant:	Mr. Gaurav Mitra, Sr. Adv. with Mr. Jayesh, Mr. Niraj Chamyal, Mr. Anirudh Singh & Mr. Sanjay Gupta (RP in person), Advocates
For Respondent:	Mr. Naveen Pahwa, Sr. Adv. with Ms. Amrita Singh & Mr. Sanket Khandelwal, Advocates for R-1. Mr. Sahil Sethi, Mr. Samriddh Bindal & Ms. Devika Tiwari, Advocates for Applicant in I.A. No. 4645 of 2026

J U D G E M E N T

(08.09.2026)

NARESH SALECHA, MEMBER (TECHNICAL)

1. The Appellant submitted that the present Appeal has been preferred against the Impugned Order dated 16.06.2026 bearing No. IBBI/DC/327/2026 passed by the Disciplinary Committee of the Respondent Board, whereby, upon disposal of the Show Cause Notice dated 30.03.2026, the Appellant's registration as an Insolvency Professional has been suspended for a period of two years, consequently rendering him ineligible to continue as the Resolution Professional of M/s Unnati Fortune Holdings Limited.

2. The Appellant contended that the Impugned Order was made operative upon expiry of thirty (30) days from the date of its issuance, i.e., approximately from 16.07.2026. It is submitted that the matter therefore warrants urgent consideration, since, in the absence of a stay, the Appellant would be required to demit office and hand over the CIRP at a substantially advanced stage. Such intervention, at this juncture, would cause serious disruption to the ongoing insolvency process and would render the Appeal substantially infructuous by the time the challenge is finally adjudicated.

3. The Appellant submitted that he has a strong prima facie case on merits, as demonstrated by the grounds urged in the accompanying Appeal. It is contended that the findings in respect of the three alleged contraventions suffer from, inter alia, misreading of the material available on record, internally inconsistent reasoning and findings which travel beyond the scope of the Show Cause Notice. The Appellant further submitted that the penalty of suspension for two years is manifestly disproportionate, particularly when there is no finding against him of mala fide conduct, dishonesty, personal gain or any loss caused to the stakeholders.

4. The Appellant submitted that the balance of convenience favours preservation of the existing position and continuation of the CIRP under his supervision pending adjudication of the Appeal. It is contended that the prejudice resulting from his removal at this stage would not merely affect the Appellant but would directly impact the progress of the CIRP and the interests of the stakeholders.

5. The Appellant submitted that, despite the challenges encountered during the CIRP, approximately 90% of Phase-I and Phase-II has already been completed under his supervision. Possession of units has been handed over to more than 1,023 allottees, which fact, according to the Appellant, was admitted by the homebuyers' own association before this Appellate Tribunal in CA (AT) (Ins.) No. 329 of 2026. The Appellant further submitted that all material statutory approvals required for the project have been procured, including approvals relating to electricity from UPPCL, PNG from IGL, fire safety, structural stability, STP/WTP and lifts excluding occupancy certificate, which could not be done due to huge outstanding dues of the Noida.

6. The Appellant further contended that the Resolution Plan, having received approval with 97.32% voting share of the CoC, is presently pending approval. At the same time, sensitive litigation concerning the project land is pending with the NOIDA Authority. It is submitted that these circumstances demonstrate that the CIRP has reached a highly advanced and delicate stage, and removal of the Appellant at this stage would materially disrupt the progress already achieved and adversely affect the interests of approximately 1,738 homebuyers, being the complete count of the claimants.

7. The Appellant further submitted that failure to stay the Impugned Order would cause grave, irreparable and irreversible prejudice to him, apart from materially affecting the ongoing CIRP. The Appellant contended that, whereas no corresponding prejudice would be caused to any stakeholders including the IBBI by maintaining the status quo pending disposal of the Appeal, the Appellant would be compelled to relinquish charge of a near-complete CIRP if the Impugned Order is allowed to operate. The Appellant also submitted that the suspension carries serious and irreversible reputational and professional consequences, particularly when he has maintained an otherwise unblemished professional record.

8. The Appellant submitted that his conduct and work during the CIRP have also been acknowledged on affidavit by the very homebuyers whose interests are sought to be protected through the impugned disciplinary action. It is contended that the present proceedings have arisen at the instance of a limited number of dissenting homebuyers, whereas the material on record demonstrates substantial progress in the project and the handing over of possession to more than 1,023 allottees. The Appellant therefore submitted that the equities, particularly in the context of the advanced stage of the CIRP and the interests of approximately 1,738 homebuyers, lie in favour of preserving the status quo until the Appeal is finally adjudicated.

9. The Appellant submitted that the present Application has been preferred bona fide and in the interest of justice, with the limited object of preventing disruption to an advanced CIRP and preserving the position existing prior to the operation of the Impugned Order, until this Appellate Tribunal has had an opportunity to examine the legality and correctness of the Impugned Order on merits.

10. The Appellant prayed before this Appellate Tribunal to stay the operation, execution and effect of the Impugned Order dated 16.06.2026 passed by the Disciplinary Committee of the IBBI during the pendency of the Appeal, and further permit the Appellant to continue discharging his functions as the Resolution Professional of M/s Unnati Fortune Holdings Limited until the hearing and final disposal of the Appeal.

11. We note that CIRP of M/s Unnati Fortune Holdings Limited ("Corporate Debtor") commenced pursuant to the order dated 27.03.2019 passed by the Adjudicating Authority in CP(IB) No. 45 of 2018, wherein the Appellant was initially appointed as the Interim Resolution Professional and subsequently confirmed as the Resolution Professional. Although the CIRP was briefly stayed on 05.04.2019 and revived on 20.08.2019, the Appellant continued thereafter to discharge his statutory functions for several years in this real-estate insolvency.

12. The Appellant contended that the principal asset of the Corporate Debtor is the residential project "The Aranya" at Sector 119, Noida, spread over approximately 72,594 sq. metres and comprising 8 residential towers containing 1,302 liveable units and 120 commercial shops. At the commencement of the CIRP, the project was substantially incomplete, with only approximately 85 flats and 105 shops occupied. It has been brought out to our notice by the Appellant that after recommencement of construction in 2021, fit-in-and-fit-out possession was handed over to more than 1,023 allottees.

13. The Disciplinary Committee of the IBBI has found the Appellant to have committed three contraventions, namely: (i) alleged mechanical acceptance and duplication of the claim of Nupur Finvest; (ii) collection of transfer/administrative charges, alleged to be in contravention of Section 28(1)(k) of the Code; and (iii) handing over possession to approximately 850 allottees without contemporaneously updating their admitted claims, alleged to be in violation of Regulation 14(2) read with Sections 18 and 25(2)(e) of the Code.

14. Apprehending that a near-complete CIRP, wherein a Resolution Plan carrying 97.32% voting share of the CoC was pending approval, and possession had already been handed over to more than 1,023 allottees, would be rendered infructuous, the Appellant preferred the present appeal along with I.A. No. 4509 of 2026 seeking interim stay of the Impugned Order.

15. By order dated 17.07.2026, this Appellate Tribunal, while observing that "a possibility that the appellant may have a prima facie case" existed, and taking note of the constraints of time arising from the transfer of the Member (Judicial), suspended the operation of the Impugned Order for a period of ten days, with a direction that the Appellant shall not discharge the functions of the Resolution Professional in the concerned assignment. Thereafter, by order dated 24.07.2026, this Appellate Tribunal recorded the submissions of both sides that no IRP/RP was functioning in the CIRP and that the Appellant was "not willing to continue any further". Liberty was accordingly granted to approach the Adjudicating Authority for appointment of a new IRP/RP, while directing that the interim order and observations would continue until the next date of listing.

16. At the outset, we would like to clarify that the observations and findings recorded herein after are confined exclusively to I.A. No. 4509 of 2026, concerning continuation of the interim stay pending final hearing, and these should not be construed as an expression of opinion or determination on the merits of the appeal, all of which are expressly left open for consideration at the appropriate stage.

17. In his Written Submissions dated 18.06.2026, the Appellant urged that the stay application be allowed on the ground that the Impugned Order is coram non judice, having been signed solely by the Chairperson purporting to act as the

Disciplinary Committee. Reliance was placed upon the judgment in *Sashi Agarwal v. Union of India & Ors.*, W.P.A. No. 10330 of 2022 (Calcutta High Court, 16.07.2026), wherein the then proviso to Section 220(1) of the code was construed as restricting the composition of the Disciplinary Committee to "whole-time members … only". The Appellant further contended that the show-cause notice dated 30.03.2026 was issued without any prior inspection or investigation under Section 218 of the code, the investigation having allegedly been directed only in May 2026, which, according to the Appellant, is impermissible in view of the ratio of *Sashi Agarwal*.

18. The Appellant also submitted that each of the three alleged contraventions is factually unsustainable. It was contended that the claim of Nupur Finvest was revised to the corrected figure before the CoC; the transfer charges were contractual, duly disclosed, and credited to the Corporate Debtor's own account; no unit was ever cancelled; and revision of claims upon handing over possession constituted a continuing obligation under Regulation 14(2), which was then in progress. The Appellant further contended that the two-year suspension is disproportionate, particularly in the absence of any finding of mala fide or personal gain in the Impugned Order.

19. Per contra, the IBBI/Respondent submitted that the Impugned Order was passed under Section 220(1), as amended by the Insolvency and Bankruptcy Code (Amendment) Act, 2026, which, according to the Respondent, contains no such restriction on the composition of the Disciplinary Committee, thus Appellant's plea of Coram non-judice is not legally sustainable.

20. At the outset, we observe that consideration of an application for interim stay ordinarily requires examination of three factors, namely, (i) existence of a prima facie case; (ii) balance of convenience; and (iii) likelihood of irreparable injury. Each of these aspects is being examined here strictly for the purpose of deciding I.A. No. 4509 of 2026 and without prejudice to the final adjudication of the appeal on merits.

21. It is an undisputed fact that the Impugned Order has been signed solely by Shri Ravi Mital, Chairperson, IBBI, purporting to act as the Disciplinary Committee. It is equally a matter of record that Section 220(1) was substituted by the Insolvency and Bankruptcy Code (Amendment) Act, 2026, with effect from 26.05.2026. The substituted provision provides that the Board shall constitute disciplinary committees "consisting of one or more persons from amongst its Chairperson, whole-time members or officers not below the rank of the Executive Director", thereby replacing the earlier proviso which confined membership to whole-time members only, and upon which the decision in *Sashi Agarwal* was founded.

22. The chronology of dates assumes significance. The show-cause notice was issued on 30.03.2026, prior to the amendment which came into force on 26.05.2026, whereas the Impugned Order was pronounced on 16.06.2026, subsequent to the amendment. Thus, the exercise of adjudicatory power culminating in the Impugned Order took place after the amended provision had come into force.

23. At one end it may be argued that the disciplinary proceedings are governed by the law applicable at the stage of their initiation; that an amendment conferring jurisdiction operates prospectively in the absence of express retrospective validation; and that a defect amounting to nullity at inception cannot be cured by subsequent legislation. On the other hand, it may be the case that this aspect requires examination in light of the principle that the competence of an authority to pass an order is ordinarily tested with reference to the law in force on the date on which the order is passed. A change in the composition of an adjudicatory body, as distinguished from a provision affecting substantive or vested rights, may also be regarded as procedural and applicable to pending proceedings.

24. Whether the issue of coram-competence in the present case falls within the category of a vested or substantive right, or constitutes a change in composition applicable to pending proceedings, is a substantial question requiring consideration at the final hearing. The effect and applicability of *Sashi Agarwal (Supra)* would also require examination, including the relevant chronology of the proceedings therein. At this interim stage, the material on record does not warrant a finding of such manifest invalidity as would justify conclusively holding the Impugned Order to be a nullity.

25. The Appellant further contended that the show-cause notice dated 30.03.2026 was founded upon complaints, whereas the investigation was directed only in May 2026, subsequent to issuance of the show-cause notice, and that such sequence is contrary to the ratio of *Sashi Agarwal (Supra)*, wherein both the show-cause notice and the consequential order were set aside for want of prior inspection/investigation under Section 218. We are of the prima facie view that this issue also requires a fuller examination at the final hearing and ought not to be conclusively determined at the interim stage.

26. The detailed submissions of the Appellant concerning the three alleged contraventions and the proportionality of the two-year suspension are, at this stage, being considered only for the purpose of the interim relief sought. These aspects would, however, have to be considered in the context of the subsequent developments. At the time of filing of the appeal on 20.06.2026, the Appellant's urgency was founded upon his removal at what was described as the delicate, near-terminal stage of the CIRP, with prejudice allegedly likely to be caused to 1,023-plus allottees. Prayer (b) of the application consequently sought permission for the Appellant to continue as the Resolution Professional. However, the aforesaid premise no longer survives. By our order dated 24.07.2026, it was recorded that the Appellant was “not willing to continue any further”, and liberty was granted to approach the Adjudicating Authority for appointment of a successor IRP/RP. In these circumstances, we are of the considered view that continuation of the interim stay for the purpose of enabling the Appellant to resume the concerned assignment would serve no useful purpose.

27. The question that nevertheless remains for consideration is whether the suspension of the Appellant's registration as an Insolvency Professional, in its generality, thereby disabling him from accepting any fresh assignment during the pendency of the appeal, ought to remain stayed. This aspect requires balancing the Appellant's professional livelihood against the public interest involved in allowing disciplinary orders passed by the IBBI to ordinarily take effect. The Appellant contends that a general suspension of his registration, if ultimately found unsustainable, would prevent him from accepting fresh assignments during the pendency of the appeal, resulting in a loss which may not be adequately compensable retrospectively. It is further submitted that no specific prejudice that would be caused to any stakeholder by staying the operation of the suspension of registration generally has been demonstrated.

28. We may now advert to the first contravention recorded against the Appellant, namely, the alleged 'failure to verify and revise the claim of M/s Nupur Finvest Pvt. Ltd.' In relation to M/s Nupur Finvest Pvt. Ltd., the Appellant submitted that the claim was initially admitted at Rs. 9,13,61,058/-, subsequently revised upward to Rs. 19,56,54,152/- upon production of corporate-guarantee documents, and thereafter revised downward to Rs. 16,63,08,522/- after the Appellant was informed of the settlement in the CIRP of M/s Unnati Fortune Hotmart Pvt. Ltd. The Appellant therefore contended that he acted upon successive information received from the creditor and revised the claim accordingly.

29. The Appellant further submitted that the recovery arising in the CIRP of M/s Unnati Fortune Hotmart Pvt. Ltd. had, in any event, been expressly factored into the Resolution Plan approved by the CoC with 97.32% voting share. The Plan contemplated exclusion of amounts recovered in the group-entity proceedings and provided for adjustment of further recoveries against the amount payable. Consequently, the Successful Resolution Applicant proposed a net payment of only Rs. 7,94,30,199/- to M/s Nupur Finvest Pvt. Ltd. The Appellant contended that, in these circumstances, there was neither double recovery nor inflation of the Corporate Debtor's liability.

30. On the other hand, IBBI submitted that the Disciplinary Committee observed that the claim was lodged on the basis of corporate guarantees executed by the Corporate Debtor for its group companies, and further submitted that while a creditor may lodge a claim on the basis of a corporate guarantee, it cannot recover more than the total outstanding amount, and any recovery from one source must be reflected by a corresponding reduction in the claim admitted elsewhere.

31. Based on above rival contentions, we observe that in the CIRP of Unnati Fortune Industries Pvt. Ltd., a recovery of Rs. 3.15 crore was realised under the approved resolution plan, pursuant to which the Appellant revised the claim downward to Rs. 16.63 crore. However, in the CIRP of Unnati Fortune Hotmart Pvt. Ltd., a resolution plan approved on 20.05.2021 provided for a further recovery of Rs. 3 crores to M/s Nupur Finvest Pvt. Ltd. Although the said recovery was noted in the minutes of the 25th CoC meeting held on 01.05.2025, the list of creditors dated 19.02.2025 continued to reflect the claim at Rs. 16,63,08,522/-. The Appellant also acknowledged having received an email dated 05.11.2025 confirming the receipt of the Rs. 3 crores, yet no consequential revision of the claim was undertaken. These circumstances constitute the basis of the first contravention recorded by the Disciplinary Committee. We prima facie do not find anything wrong in such finding.

32. We shall next consider the contravention alleged against the Appellant, concerning the cancellation of residential units during the CIRP without the approval of the CoC.'

In this regard, the Appellant submitted that no cancellation of any of the 17 units referred to in the minutes of the 11th CoC meeting ever took place. The Appellant contended that the reference to cancellation in the minutes was merely an inadvertent description of the issuance of final notices and could not constitute a completed act of cancellation.

33. On the other hand, the IBBI brought to our notice that the Disciplinary Committee has taken into consideration that cancellation of allotments, followed by their re-allotment or sale, has a direct bearing upon the contractual rights of homebuyers and constitutes a material commercial decision. Such action, therefore, could not have been undertaken as a mere matter of routine administration and required due transparency and approval of the CoC.

34. After noting rival contentions on the issue of alleged cancellation of voting by the Appellant, we observe that the Disciplinary Committee has relied upon the minutes of the 11th CoC meeting, which recorded that 17 units had been cancelled by the RP after issuance of three notices and that the said units were proposed either to be offered to Phase 3 buyers or sold through e-auction. We also take into consideration that the Disciplinary Committee has held that the Appellant lacked the authority even to initiate the process of cancellation by issuing notices to the allottees and thereafter placing the proposal before the CoC for approval. The records, according to the Disciplinary Committee, did not evidence any deliberation or voting by the CoC on such cancellation. These facts also in our opinion, on prima facie, seems relevant and do not support for interim protection to the Appellant.

35. In relation to the other contravention by the appellant, i.e. transfer charges, the Disciplinary Committee noted that the issue was raised by the homebuyers in the 26th CoC meeting held on 06.06.2025. Despite objections being specifically recorded in the minutes, no proposal was placed before the CoC either for approval or ratification of the transfer charges. The Disciplinary Committee accordingly concluded that the Appellant had levied and enhanced transfer charges, resulting in collection of Rs. 3.55 crore, without obtaining the prior approval of the CoC, thereby holding him in contravention of Section 28(1)(k) of the Code read with Clauses 1, 2, 12 and 14 of the Code of Conduct.

36. In relation to the alleged transfer charges, the Appellant submitted that such charges were not introduced by him during the CIRP but arose from the pre-existing contractual arrangement contained in Clause 11 of the Builder Buyer Agreement, under which transfer charges of Rs. 100/Rs. 200 per sq. ft. could be levied and revised. According to the Appellant, he merely continued an existing contractual and business practice in the ordinary course. The charges were payable by incoming transferees seeking substitution of allotment rights and not by the existing homebuyer-creditors. The Appellant contended that the transfer charges were fully accounted for and approximately Rs. 3.55 crore was received in the bank account of the Corporate Debtor and no part of the amount was credited to or retained by the Appellant personally.

37. In these connections, we are of prima- facie opine that in the given circumstances, the Appellant was required to place the matter before the CoC for appropriate consideration and approval. The record, however, showed that objections concerning the levy were raised in the 26th CoC meeting dated 06.06.2025, yet no proposal seeking prior approval or ratification of the charges was placed before the CoC. The Appellant's contention that the charges were borne by transferees and not by the existing allottees do not find to be convincing on prima farcie basis as collection of Rs.3.55 crore without prior CoC approval is not considered proper as hefty transfer chargers, directly or indirectly, impact buying and selling power of the homebuyers.

38. Now, we shall consider the next contravention, namely, the alleged improper reduction and reconstitution of the claims of homebuyers during the CIRP. In his defence, the Appellant sought to justify such reconstitution by relying upon Regulation 46A of the IBBI (Liquidation Process) Regulations, 2016, and the possession/fit-out letters issued to certain allottees. The Appellant contended that the revision of claims following fit-in-and-fit-out possession was undertaken as part of his continuing obligation to maintain an accurate creditor matrix. Once possession had been delivered and the corresponding consideration had been paid by the concerned allottees, the monetary component of the claim stood substantially discharged, leaving only residual obligations, including pending common amenities and allied matters. The Appellant submitted that retaining the entire original monetary claim despite beneficial occupation of the unit would result in an impermissible duplication of benefits.

39. The Appellant further submitted that the decision to revise the claims was not taken casually or unilaterally. He obtained a Legal Opinion dated 30.01.2025, circulated the same to the members of the CoC on 03.02.2025, and thereafter filed an application dated 19.02.2025 before the Adjudicating Authority seeking reconstitution of the CoC. The said application was taken on record by order dated 28.04.2025. The Appellant thus contended that the revision of claims was undertaken transparently, upon professional advice, and within the knowledge of both the CoC and the Adjudicating Authority.

40. The Disciplinary Committee, however, observed that Regulation 46A operates in the context of liquidation proceedings and concerns exclusion of assets from the liquidation estate where possession has already been handed over to the allottees. In the present case, the Appellant relied upon possession or fit-out letters for exclusion of the concerned units and corresponding reduction of claims. The Disciplinary Committee held that mere issuance of such letters does not, by itself, effect transfer of ownership, which can take place only upon execution and registration of a valid sale deed. Consequently, reduction or exclusion of homebuyers' claims solely on the basis of possession letters was held not to accurately reflect the legal rights and liabilities of the parties.

41. Based on Appellant and IBBI pleadings noted above, we are prima facie of the view that reduction of admitted claims also had a consequential impact upon the composition and voting strength of the CoC, as if claims of homebuyers are reduced, their voting shares stand altered and the constitution of the CoC got changed. Such a change directly affects participation and decision-making within the CoC. We are again of prima facie view that the Appellant's reliance upon the legal opinion obtained by him did not make the action immune from disciplinary scrutiny. Professional advice cannot override the statutory requirements of the Code and applicable regulations.

42. We also note that the Appellant submitted that the website-related allegation concerning non-updation of the list of creditors, even assuming the same to constitute a lapse, was at the highest a technical irregularity which caused no demonstrated prejudice. The Appellant therefore contended that such an inconsequential lapse could not reasonably warrant the extreme penalty of two years' suspension.

43. The IBBI submitted that Section 25(2)(e) read with Regulation 13(2) required the RP not merely to maintain an internally revised claim position but also to ensure filing of the updated list of creditors on the Board's electronic platform. The record showed that the list of creditors had been filed on 11.09.2021, but no subsequent revised list reflecting the later changes in claims was filed on the Board's website.

44. As such on this issue, we are not inclined to accept contentions of the Appellant, at this stage of interim stay. However, this issue will be dealt finally at final stage.

45. We note that the Disciplinary Committee further noticed an apparent inconsistency in the Appellant's stand. In relation to the first contravention, the Appellant contended that in the absence of a formally revised claim from M/s Nupur Finvest Pvt. Ltd., he could not suo motu revise the admitted claim and that the obligation to update the claim rested upon the creditor under Regulation 12A. However, in defending the third contravention, the Appellant contended that upon handing over fit-out possession to homebuyers, he was empowered and, in fact, obligated under Regulation 14(2) to suo motu reduce their admitted claims, so as to prevent unjust enrichment by allowing the homebuyers to retain both possession and their full monetary claims. The Disciplinary Committee held that the power and obligation under Regulation 14(2) could not be invoked selectively depending upon the class of creditor or the consequence sought to be achieved. On this basis, the Disciplinary Committee held the third contravention to be established. We prima-facie find force in the logic of the IBBI.

46. In order to decide the Interim Sty application of the Appellant, we also find it appropriate to understand the statutory scheme under which the Impugned Order came to be passed. Section 220 of the Code empowers the IBBI to constitute a Disciplinary Committee for the purpose of considering the reports of the Investigating Authority and passing such order as it deems fit, including suspension or cancellation of registration of an insolvency professional, in accordance with the procedure specified in the regulations made under the Code. Regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 sets out the procedure culminating in such an order. Section 208(2) of the Code casts upon every insolvency professional the duty to abide by the Code of Conduct specified under the regulations, and, in particular, under clauses (a) and (e), to take reasonable care and diligence and to perform his functions in a transparent manner. Clauses 1, 2, 3, 8B, 14 and 16 of the Code of Conduct in the First Schedule to the IBBI (Insolvency Professionals) Regulations, 2016 elaborate on the standards of integrity, objectivity, disclosure of conflict of interest, and timely and transparent record-keeping expected of an insolvency professional.

It is against this statutory backdrop that the contraventions found by the DC against the Appellant are being considered by us in the main appeal.

47. We note that the Disciplinary Committee, by passing the impugned order, under section 220 of the Code read with Regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 suspended registration of the Appellant for a period of two years. We further note that DC also stated that during the suspension period, the Appellant will be ineligible to continue with the present assignment i.e., M/s Unnati Fortune Holdings Limited (UFHL). The Impugned Order further provide the CoC of UFHL to recommend the appointment of new RP. The Appellant was directed to handover records of the Corporate Debtor to new RP appointed by the CoC/Adjudicating Authority and a copy of the order was to be forwarded to the Indian Institute of Insolvency Professional of ICAI (IIIPI) where the Appellant is enrolled as a member along with a copy to be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal, New Delhi, for information.

48. We note the pleading of the Appellant that the balance of convenience lies in favour of the Appellant, that he continues to enjoy a prima facie case as noted in the order dated 17.07.2026, and that irreparable prejudice would be caused to him both in terms of loss of the assignment and consequential reputational harm, if the Impugned Order is permitted to operate and a new RP is confirmed during the pendency of the Appeal, since the Appeal would in that event be rendered largely academic so far as continuation in this particular assignment is concerned. On the other hand, the IBBI has strongly resisted the grant of any interim relief, addressing each of the three contraventions, which we have noted in details earlier.

49. At this stage, we would like to express our considered view that the removal of a Resolution Professional from any assignments, including current or any other CIRP, would depend upon the facts and circumstances of each case, having regard to the magnitude of the misconduct committed by him and no strait jacket formula would be desirable and also could not be devised accordingly.

50. We find that Section 220(2) of the Code empowers the Disciplinary Committee, upon being satisfied that sufficient cause exists, to suspend or cancel the registration of an insolvency professional. The consequence of such suspension is that the person ceases to be a registered insolvency professional and, consequently, stands disentitled to act as Interim Resolution Professional or Resolution Professional in any insolvency process under the Code. We are of explicit opinion that the authority to act as Resolution Professional is linked to the status of being a registered insolvency professional and once such status is suspended and taken away, the person cannot lawfully continue to discharge the functions of a Resolution Professional. In this regard Section 206 of the code may be recalled wherein it is provided that the insolvency professional who is registered with the Board may only render his services as resolution Professional.

51. We also take into consideration Regulation 13 of the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017, which governs the disposal of show-cause notices, and find it of much significance. Sub-regulation (3) thereof expressly provides that the order of the Disciplinary Committee may provide for, inter alia, any of the actions under sub-sections (2), (3) and (4) of Section 220 of the Code, or "any other action or direction as may be considered appropriate." More importantly, sub-regulation (7) mandates that in case where the service provider is an insolvency professional, the IBBI shall intimate the order to all the members of committee of creditors of the insolvency resolution processes in which he is acting as an interim resolution professional or resolution professional, as the case may be, and to the Adjudicating Authority.

This provision is crystal clear, mandatory and leaves no room for doubt that the IBBI is under a statutory obligation to intimate the order of suspension to every Committee of Creditors before which the suspended insolvency professional is acting, as also to the Adjudicating Authority. The purpose of such intimation is evidently to ensure that the consequences of the disciplinary order passed in connection with one CIRP may be given full effect and that all stakeholders are put on notice of the ineligibility of the suspended professional, and that the integrity of the ongoing processes is not compromised. The communication of the order and of any consequential direction that the suspended professional be replaced, is merely the operationalisation of the legal effect of the suspension and it cannot be said that the Disciplinary Committee has exercised the power of replacement under Section 27 of the Code.

52. We note that Section 27 deals with the power of the Committee of Creditors to replace a Resolution Professional who continues to be eligible to act as such. It has no application where the person has ceased to be eligible, by reason of suspension of his registration. Both these powers operate in distinct fields. The power of the IBBI and its Disciplinary Committee is regulatory and disciplinary in character and the power of the Committee of Creditors under Section 27 is in exercise of its commercial wisdom and there is no conflict between these two. Once the registration of a Resolution Professional is suspended, the Committee of Creditors is merely informed of a change in the legal capacity of the Resolution Professional to act as such, so that it may take appropriate steps to appoint another Resolution Professional in accordance with law.

53. We observe that the residual power under Regulation 13(3)(e) to issue any other action or direction as may be considered appropriate, further fortifies the authority of the Disciplinary Committee to ensure that the primary order of suspension is not rendered without substance. Allowing an insolvency professional to continue to act in single or as that matter in multiple Corporate Insolvency Resolution Processes, whose registration has been suspended for proven misconduct, would not only defeat the very object of the disciplinary action but would also expose the stakeholders to continued risk. It may also be emphasized that the Resolution Professional is not having a vested Right to continue as such and his continuation as Resolution Professional is subject to the procedure established by the Regulating Authority.

54. In view of the aforesaid , we hold that the intimation of the suspension order to the Committees of Creditors of UFHL in which the appellant was acting as Resolution Professional, and the consequential direction for fresh recommendation to appoint new Resolution Professional subsequent to Appellant's suspension therefrom, is fully within the jurisdiction of the Disciplinary Committee and the IBBI as the same is expressly contemplated under Regulation 13(7) of the Inspection and Investigation Regulations and is a necessary and legitimate consequence of the order of suspension passed under Section 220(2) of the Code. We may also add that the scheme of the Code and the Regulations is designed to ensure that disciplinary action against an insolvency professional is effective and that the insolvency processes under the Code is not left in the hands of a person who has been found tainted and unfit to continue as a registered professional. Any other interpretation that would permit a suspended Resolution Professional to continue in other ongoing insolvency processes, as a matter of right, would render the power of suspension largely ineffective and would be contrary to the legislative intent of the Code

55. The Disciplinary Committee in the light of the jurisdiction conferred upon it by Section 220 of the Code is/was empowered to take into consideration all relevant aspects including the conduct of RP. The reasonableness of 2 years for which suspension has been awarded along with other pleadings of the Appellant in the present appeal, could only be seen at the time of final disposal of the appeal on the touch stone of proportionality and merit of the case.

56. It is noted that the Impugned Order was preceded by the issuance of the SCN, written reply of the Appellant and a personal hearing on 26.05.2026. The Appellant was therefore afforded an opportunity to present his defence before the Disciplinary Committee, and the final findings were recorded after considering the material placed on record. The penalty was imposed under Section 220 of the Code was preceded by findings of three distinct contraventions concerning materially important aspects of the CIRP. The Disciplinary Committee, having considered the nature of the violations and the statutory framework, directed suspension of the Appellant's registration for a period of two years and made the suspension operative after 30 days from issuance of the order.

57. We note that Appellant also submitted that he has a strong prima facie case. The balance of convenience is also in his favour and he would face a greater injury if he is removed from the assignments for which no misconduct has ever been reported, thus the operation of the impugned order be stayed till the disposal of the appeal. The Appellant further submitted that none of the three alleged contraventions involves any finding of mala fide conduct, dishonesty, collusion, personal gain or wrongful enrichment on his part. The allegations, even at their highest, concern the manner in which statutory or procedural functions were exercised in a highly complex and prolonged CIRP. The Appellant therefore contended that the absence of any dishonest intent, coupled with the absence of demonstrated loss or prejudice, constituted material mitigating circumstances which ought to have substantially influenced the disciplinary outcome.

58. The Appellant submitted that the principle of proportionality required the Respondent to consider the nature and gravity of the alleged lapses alongside his overall performance, professional record, absence of personal benefit, transparency before the CoC, constraints under which the CIRP was conducted, the substantial work completed and the absence of demonstrable stakeholder loss. The Appellant contended that the imposition of a two-year suspension, in these circumstances, represents an excessive response to the alleged contraventions.

59. We consciously note that the disciplinary proceedings are founded upon specific statutory duties cast upon a Resolution Professional and are not a mere review of commercial decisions taken during CIRP. The issues considered by the Disciplinary Committee concern maintenance and revision of admitted claims, levy of transfer charges, proposed cancellation of homebuyers' units, and revision/reconstitution of the creditor matrix. Each of these matters has a direct bearing on the accuracy of the insolvency process, the rights of stakeholders and, where claims are concerned, the composition and voting strength of the CoC.

60. Section 25(2)(e) of the Code expressly requires the Resolution Professional to maintain an updated list of claims, while Regulation 14(2) of the CIRP Regulations requires revision of admitted claims as soon as practicable when additional information warranting revision comes to the RP's knowledge. The obligation is continuing in nature and is intended to ensure that the claims reflected in the CIRP represent the actual financial liabilities of the Corporate Debtor, which the Appellant failed to do so.

61. Also, are also of prima facie opinion that the absence of a finding of personal gain or dishonesty by the DC does not, by itself, exonerate an Insolvency Professional from statutory non-compliance. The Code places independent duties of care, diligence, transparency and compliance upon an RP, and failure to discharge such duties can constitute a contravention notwithstanding the absence of personal enrichment.

62. The IBBI has drawn our attention towards Section 206, 207, and 208 of the Code as appearing in Chapter IV of the Code for the purpose of highlighting that no person may render his services as an insolvency professional without being enrolled as a member of an Insolvency Professional agency and registered with the Board and if, by passing any order, the registration of the Resolution Professional has been suspended in one case, he could not continue as a Resolution Professional in any case because his or her registration has already been suspended. No Resolution Professional who is not registered with the IBBI may serve as a Resolution Professional at all.

63. The IBBI also tried to impress us with the logic that, keeping in view the nature of the duties and powers entrusted to the Resolution Professional, it has been provided under Section 7(5)(a) and 9(5) (e) of the Code that a resolution professional against whom even any disciplinary proceeding is pending could not be appointed as an IRP or RP and therefore when a Resolution Professional against whom merely a disciplinary inquiry is pending may not be allowed to work, as such, how a Resolution Professional who, after due inquiry and by adopting a procedure, has been found guilty of misconduct, may be allowed to perform the duties of Resolution Professional in any CIRP of the Corporate Debtor.

64. Highlighting some of the guidelines of the Code of Conduct, the IBBI strongly argued submitted that the nature of the powers and duties which have been entrusted to the Resolution Professional by the Code is such that any lapse committed knowingly or unknowingly by him may bring disrepute to the whole institution of the insolvency professionals. The IBBI urged us to keep in mind the fact that the CIRP is the business of trust and once the trust is breached it would be very difficult for the stakeholders of an insolvency process to believe in the functioning of the resolution of the CD within the framework of the Code. The IBBI urged us that, whatever decision we would take with regard to the instant appeal would convey a message to the whole of the body of insolvency professionals and therefore, it should not reflect that any misconduct committed by a Resolution Professional would be ignored by the guardians of law and further therefore, having regard to the nature of misconduct committed by the appellant, he is not entitled to any interim relief.

65. We would also like to take into consideration the judgment of the Calcutta High Court in ***Ananda Rao Korado v. IBBI*** *[W.P.A. No. 19016 of 2023]*, where, while declining interim stay of an order of the DC, it was held:

> *"...this court is of the opinion that grant of interim order, as prayed, even to the extent that the petitioner will continue to perform as a resolution professional in the pending corporate resolution proceedings, would tantamount to grant of final relief in the writ petition. Going by the concept of balance of convenience and inconvenience, in the event the petitioner is permitted to carry on functioning as a resolution professional in some proceedings somewhere within Indi[a] and ultimately the writ petition is dismissed, the damage then done would be irreversible, since the entire gamut of the proceedings cannot be put back in time. On the other hand, the petitioner shall not suffer any irreversible or irreparable injury in the event he remains restrained from functioning as a resolution professional due to the cancellation, subject to the outcome of the writ petition, since the resolution professional can be changed in a proceeding within the [purview] of IBC, 2016 at any point of time."*
>
> *(Emphasis supplied)*

66. We observe that above finding of the Hon'ble High Court are quite pertinent to present case. We find that ***Ananda Rao Korado (supra)*** itself arose in similar circumstances, a writ petition by an insolvency professional against an order of the DC suspending or cancelling his registration, in which interim stay was sought to the extent of permitting him to continue functioning as resolution professional in pending CIRPs. The Hon'ble High Court's refusal of interim relief in that case proceeded squarely on the reasoning extracted above, and not on any finding peculiar to the facts of that professional's misconduct; the principle stated is accordingly one of general application to the class of case now before us, and not one confined to its own facts.

67. It is well settled, and does not require extensive elaboration, that the grant of any interim relief is ordinarily governed by a composite assessment of prima facie case, balance of convenience, and irreparable injury. It is equally well settled and this is the principle on ***Ananda Rao Korado (supra)*** is founded that where the interim relief sought is coextensive with, or would in practical effect amount to, the final relief claimed in the proceeding, we need to exercise caution, since other stakeholders in the CIRP, especially the Homebuyers, would be put to irreversible detriment. We are unable to see why that principle should not apply with equal, if not greater, force here where his continuance as Resolution Professional of any Corporate Debtor underlying, CIRP notwithstanding a reasoned order of the DC suspending his registration on findings, are not without prima facie substance, as noted by us earlier.

68. We need to emphasise that an insolvency professional holds no vested or proprietary right to continue in a particular assignment. The scheme of the Code, in particular Section 27 of the Code (power of the CoC to replace the Resolution Professional) and Section 22 of the Code read with the Regulations, proceeds on the footing that the identity of the person discharging the functions of RP is at all times subject to the will of the CoC, subject to compliance with the Code, and that continuity of the office, rather than continuity of any particular incumbent, is what the statute protects. Viewed thus, an order suspending an insolvency professional's registration, even if it results in his replacement in a live assignment, does not visit upon him a species of injury that the law regards as incapable of correction; what it visits upon him is the ordinary consequence of a regulatory finding, reversible on success in appeal.

69. We are of view that following ***Ananda Rao Korado (supra)***, we are unable to identify any injury to the Appellant, arising from continuation of the suspension pending the Appeal, that could properly be described as irreparable. If the Appeal succeeds, the suspension will stand set aside and the consequences reversed to the extent the law permits; there is, on the material before us, no suggestion that a resolution professional, once reinstated by appellate order, is thereby rendered incapable of resuming an assignment, or that the law does not provide for restitution of position upon success in appeal. By contrast, permitting the Appellant to continue would mean that the CIRP had, for the entire intervening period, proceeded under the stewardship of a Resolution Professional.

70. It is necessary to add a further word on the standard of scrutiny appropriate at this stage. The DC is a body specially constituted under the Code, staffed to consider matters of professional discipline among insolvency professionals, and entrusted with an investigative record built up over a period of years, including due process of show cause notice, replies, and personal hearing. We are of clear opinion that this Appellate Tribunal, reviewing such findings of the DC, more so at the interim stage before the appeal itself has been finally heard, ought not to substitute its own fresh appraisal of the underlying evidence for that of the specialised body (DC), except to the extent necessary to determine whether a prima facie case for interim relief exists. We would also observe that professional discipline in the insolvency space is not a matter of private concern between the insolvency professional and the IBBI alone. The very premise of the Code is that resolution of corporate debtors is conducted through professionals in whom creditors, especially where number of individual homebuyers, are required to repose trust without the safeguards available to them in ordinary commercial dealings.

71. For the reasons set out above, we are satisfied that this is not a case in which the interim protection already extended, and sought to be further extended, ought to be continued. The prima facie case for interim relief, and the balance of convenience, having regard to the subsisting arrangement under the Adjudicating Authority's supervision and the interests of the generality of homebuyer-creditors, weighs against the Appellant. We also hold that no irreparable injury of the kind that would justify interim relief tantamounting to final relief has been shown. Grant of the relief sought would, for the reasons explained in ***Ananda Rao Korado (supra)***, amount in substance to grant the Appellant the relief claimed in the Appeal itself, without the benefit of a final hearing.

72. The Appellant has raised few other issues, which have been rebutted by the IBBI. We shall add them at the time of final disposal.

73. At this stage, we note that liberty was granted to the IBBI to file a detailed reply. However, till the date of writing of this order, no reply to the stay application has been filed by the IBBI.

74. Thus, keeping in view all the facts and circumstances of this case, we do not find any prima facie case in favour of the appellant for grant of interim stay. The Balance of Convenience is also not with the Appellant. Therefore, the interim stay application bearing IA No. 4509 of 2026 filed by the appellant is hereby dismissed.

75. The IBBI is already represented before us. It may file its reply within two weeks from today with an advance copy to the appellant, who in turn, if so wish, may file the rejoinder within one week thereafter.

76. List accordingly on **30.09.2026** under the caption **'For Admission (After Notice)'**.

77. It is made clear that nothing contained in this order shall be construed as an expression of final opinion on the correctness or otherwise of the findings recorded in the Impugned Order, all of which shall be examined afresh, on their own merits and after full hearing, at the final disposal of Company Appeal (AT) (Ins.) No. 1160 of 2026.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

Sim
Chinmayee (LRA)