

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

2. IA/2138/2025 C.P. (IB)/1037(MB)2023

IN THE MATTER OF

Unity Small Finance Bank Limited

Vs

Sudradh Consturctions Pvt Ltd

U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 09.10.2026

CORAM:

SH. VINAY GOEL
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Petitioner:

For the Respondent: Adv. Ashwini Gawde a/w Adv. Pravin Padave, Adv. Tej
Lapsiya i/b ASR & Associates

ORDER

IA/2138/2025: A detailed order directing inquiry in terms of the provision of Section 213(b) of the Companies Act is passed. List this IA for further consideration on **15.12.2026**.

Sd/-
VINAY GOEL
Member (Judicial)
//Rahul//

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)

NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH - V

I.A(I.B.C)/2138/2025

IN

C.P.(IB)/ 1037/MB/C-V/2023

*(Under Section 70 of the Insolvency and
Bankruptcy Code, 2016)*

Anurag Kumar Sinha,

(Resolution Professional of Sudradh
Constructions Private limited)

Flat No.3602, Redwood (Tower No.7),
Runwal Greens, Mulund - Goregaon Link
Road, Bhandup (West), Mumbai,
Maharashtra- 400078.

...Applicant

Versus

1. Laxmichand Damji Chheda

231-233, Big Splash, Plot No.78/79,
Sector- 17, Vashi, Navi Mumbai,
Maharashtra – 400703

2. Hansa Laxmichand Chheda

231-233, Big Splash, Plot No.78/79,
Sector- 17, Vashi, Navi Mumbai,
Maharashtra – 400703

...Respondents

IN THE MATTER OF

Unity Small Finance Bank Limited

...Financial Creditor

Versus

Sudradh Constructions Private Limited

...Corporate Debtor

Order Delivered on: 09.10.2026

Coram:

Ms. Vinay Goel,
Member (Judicial)

Sh. Charanjeet Singh Gulati
Member (Technical)

Appearances:

For Applicant: Adv. Swechcha Mishra and Jayesh Gupta.

For Suspended Director: Adv. Amir Arsiwala, Adv. Ashwini Gawde & Adv. Tej Lapsija

ORDER

I.A(I.B.C)/2138/2025

1. The present application has been filed by Mr. Anurag Kumar Sinha, ("**Applicant/ Resolution Professional**"), the Resolution Professional of Sudradh Constructions Private limited ("**Corporate Debtor**") under 70 of the Insolvency and Bankruptcy Code, 2016 ("**IBC/the Code**"), seeking to pass an Order directing the Respondents to provide Information and Documents as sought by the Applicant and give control/custody of all the Assets of the Corporate Debtor to the Applicant, to pass an Order declaring that the Respondents have contravened the provisions of Section 70 of the Code and pass appropriate directions in light of the same.

Facts as per the Application, in brief:

2. The present Application has been filed against Mr. Laxmichand Damji Chheda ("**Respondent No. 1**") and Mrs. Hansa Laxmichand Chheda ("**Respondent No. 2**"), the suspended Directors of the Corporate Debtor, alleging withholding of information, documents and control of assets of the Corporate Debtor, thereby contravening Section 70 of the Code.

3. The Corporate Insolvency Resolution Process (“**CIRP**”) of the Corporate Debtor was initiated vide order dated 21.08.2024, pursuant to which the Applicant was appointed as the Interim Resolution Professional (IRP). The said order was challenged by the Respondent No.1 before the Hon’ble NCLAT in Company Appeal (AT) (Ins.) No. 1656 of 2024, wherein an interim stay on further steps was granted vide order dated 23.08.2024. The Hon’ble NCLAT, vide final order dated 22.11.2024, disposed of the said Appeal, granting Respondent No. 1 liberty to settle the matter under Section 12A of the Code within two weeks, failing which the CoC was to be constituted and the CIRP was to proceed. On the email sent by the Applicant dated 07.12.2024, the Financial Creditor confirmed that no settlement payment had been made and accordingly the CIRP proceeded.
4. Consequent thereto, the Applicant made a public announcement in Form-A on 10.12.2024, inviting claims from creditors, with the last date for submission being 21.12.2024. Meanwhile, the Applicant vide email dated 07.12.2024 intimated the Respondents about the Vacation of the Stay Order as passed by the Hon’ble NCLAT, and made further requests to the Respondents to comply with the email dated 22.08.2024 sent by the Applicant and refrain themselves from operating the Bank Accounts of the Corporate Debtor. Accordingly, the Applicant sought from the Respondents, the details of the Bank Accounts as well as the Assets of the Corporate Debtor in compliance with Section 17 and 18 of the Code.
5. The Applicant submits that after collation of claims of all the creditors, an Application bearing IA. No. 549 of 2025 was filed by the Applicant before this Tribunal to take on record the constitution of Committee of Creditors (“**CoC**”), which was taken on record by this Tribunal vide order dated 30.01.2024.
6. The Applicant thereafter repeatedly, through a series of emails, from email dated, 23.12.2024, to email dated 16.03.2025, called upon the Respondents to furnish information/documents pertaining to the Corporate Debtor's bank accounts, investments, loans and advances, trade receivables, inventories, and to hand over control and custody of its assets, including certain gold bars

valued at Rs. 2,27,72,455/- reflected in the Corporate Debtor's balance sheet as on 31.03.2024.

7. The Applicant submits that in the 1st CoC Meeting dated 06.01.2025, the Applicant apprised the members of the Committee of Creditors of the Corporate Debtor about the steps taken by the Applicant seeking Co-operation from the Respondents herein for the Data and Information pertaining to the Corporate Debtor. The CoC passed a Resolution and appointed the Applicant as the Resolution Professional.
8. It is the case of the Applicant that despite the aforesaid repeated requests, the Respondents furnished only partial information (bank statements, Form 26AS, audited financials, and three Leave & License Agreements), while withholding, inter alia: a) details of an unsold flat (Flat No. 604) and a shop (Shop No. 12) not earlier disclosed by the Respondents but confirmed by the housing society; b) details of advances aggregating Rs. 42,98,57,126/- and Rs. 1,30,00,000/- shown in the balance sheet; information related to custody of the primary gold bars worth Rs.2,27,72,455/-; c) complete books of account and Tally data; d) clarification regarding a Leave & License Agreement in respect of Flat No. 602 executed in the name of one Mr. Fakruddin Sadruddin Khan as licensor, which the Applicant contends was executed fraudulently, the flat admittedly belonging to the Corporate Debtor. It is further alleged that rental income from the Corporate Debtor's unsold flats was being diverted and not deposited into its bank accounts.
9. With respect to the issue regarding Flat no.602, the Applicant has submitted that GAIL (India) Limited, tenant of Flat No. 602 (Wing 2) at the Housing Project, through its Executive Trainee Mr. Guntru Sadhan Kumar, vide email dated 27.02.2025, informed the Applicant about a Rental Agreement executed between GAIL and one Mr. Fakruddin Sadruddin Khan for 11 months from 03.10.2024, along with bills evidencing monthly rentals paid to Mr. Khan. In response, the Applicant, vide email dated 28.02.2025, informed GAIL that, as per records available with him, the said flat belonged to the Corporate Debtor, and that the Rental Agreement with Mr. Khan could not be treated as valid,

requesting deposit of the remaining rentals into the Corporate Debtor's bank account managed by the Applicant.

10. Accordingly, the Applicant, vide letters each dated 01.03.2025 addressed to GAIL (India) Limited and Mr. Fakruddin Sadruddin Khan, informed them that the Rental Agreement between them could not be treated as valid, requesting GAIL to deposit the remaining rentals into the Corporate Debtor's bank account, and calling upon Mr. Khan to clarify the capacity in which he had executed the said Leave and License Agreement.
11. On account of the aforesaid non-cooperation, the Applicant also filed a separate application IA no.1416 of 2025 under Section 19(2) of the Code on 01.03.2025, which is pending for hearing on 03.11.2026.
12. Thereafter, the Applicant, vide email dated 03.03.2025, intimated the Society Office of the Housing Project about initiation of the CIRP and sought details of the Corporate Debtor's flats/shops in the project. The Society Office, vide letter dated 11.03.2025, informed that the Corporate Debtor owned a total of six flats and one shop (as against the five flats earlier disclosed by the Respondents), all let out on Leave and License basis, and that maintenance/repair fund dues of Rs. 8,08,988/- remained outstanding as of February 2025. This discrepancy indicated that the Respondents had been concealing information regarding the Corporate Debtor's assets. The Applicant, vide email dated 11.03.2025, once again called upon the Respondents to furnish all pending information, agreements, documents, and control of assets immediately, failing which he would be constrained to file an appropriate application under Section 70 of the Code.
13. The Applicant contends that the conduct of the Respondents in not disclosing complete details of the Corporate Debtor's properties/assets, not providing custody of the gold bars, not furnishing complete access to books of account, and in facilitating what is alleged to be a fraudulently executed Leave & License Agreement, squarely attracts the penal provisions of Section 70(1)(a), (b), (c) and (e) of the Code. The Applicant accordingly prays that this Tribunal declare that the Respondents have contravened Section 70 of the Code, direct them to furnish the information/documents sought and hand over

control/custody of the Corporate Debtor's assets, and pass such further orders as deemed fit.

Reply by the Respondents, in brief:

14. The Respondents have through their affidavit in reply dated 21.07.2025 contend that Section 70 of the Code pertains to punishment for misconduct during CIRP and is penal in nature, triable only by the Special Court constituted under Section 236 of the Code, which expressly provides that “*no court shall take cognizance of any offence punishable under this Code.*” It is submitted that this Tribunal, being a quasi-judicial authority of limited jurisdiction, cannot adjudicate, try or render findings on alleged offences under Section 70, which can only be tried and cognizance taken thereof by the Special Court/appropriate criminal court notified under the Code.
15. Reliance is placed on the decision of the Hon’ble NCLAT in ***Ajay Vij and Another v. Mr. Abhishek Dutta (Official Liquidator of M/s Solutions Business Centre Pvt. Ltd.)*** and another, ***Company Appeal (AT)(Ins) Nos. 726 & 728 of 2021***, and ***Pankaj Gambir v. Mr. Abhishek Dutta, Company Appeal (AT)(Ins) Nos. 818-819 of 2021***, wherein it was held that the NCLT has no jurisdiction to convict a person for an offence under Section 68 (Chapter VII, Part II of the Code) in view of Section 236(1), which mandates that offences under the Code shall be tried only by the Special Court established under Chapter XXVIII of the Companies Act, 2013, and that no court shall take cognizance of any such offence save on a complaint by the Board, the Central Government, or a person authorised by the Central Government.
16. Accordingly, the Respondents submit that any alleged contravention by the Respondents under Section 70 may only be inquired into by the authorities empowered under the criminal procedure, and not by the Adjudicating Authority, and that the Resolution Professional cannot seek directions from this Tribunal that are beyond its jurisdiction under the Code.

17. On merits, it is submitted that the Respondents have fully cooperated, and continue to cooperate, with the Resolution Professional in the conduct of the CIRP, and have furnished all relevant documents, data and information within their possession. The imputation of misconduct or non-cooperation is denied as wholly baseless and a misconceived attempt to malign the suspended management. It is accordingly prayed that the Application, to the extent it seeks relief under Section 70 of the Code, be dismissed for want of jurisdiction.

Rejoinder by the Applicant, in brief:

18. In the Affidavit in Rejoinder dated 17.09.2025, the Applicant reiterates that during the course of CIRP, the Respondents have committed acts of misconduct and non-cooperation amounting to offences under Section 70(1)(a), (b), (c) and (e) of the Code, including failure to deliver documents, records and property of the Corporate Debtor, wilful concealment of material information, and non-cooperation despite repeated requests.
19. On the objection to jurisdiction, the Applicant submits that this Tribunal, having supervisory jurisdiction over CIRP proceedings, is empowered to record findings regarding misconduct under Section 70, this being a question directly arising in relation to the ongoing CIRP; that while the ultimate punishment can only be imposed by the Special Court under Section 236, the initial finding of fact as to whether such misconduct has occurred must necessarily be made by the Adjudicating Authority, whose role is not to impose sentence but to determine prima facie violation and transmit the matter for prosecution before the Insolvency and Bankruptcy Board of India (IBBI)/Central Government; and that absent such intervention at the threshold, Section 70 would be rendered a dead letter and the provision nugatory.
20. Reliance is placed on the decision of the Hon'ble NCLAT dated 20.09.2019 in ***Lagadapati Ramesh & Ors. v. Ramanathan Bhuvaneshwari & Ors., Company Appeal (AT)(Ins.) No. 574*** of 2019, wherein it was held that the Adjudicating Authority, upon receipt of a complaint alleging violation of Sections 68 to 74 of the Code and on being satisfied that circumstances

suggesting fraud etc. exist, may refer the matter to the Central Government for investigation, and that upon such investigation, the Central Government may refer the matter to the Special Court or authorise a complaint to be filed under Section 236(2) of the Code — thereby recognising an incidental jurisdiction in the Adjudicating Authority to conduct preliminary fact-finding on such allegations.

21. The Applicant further submits that he has placed on record a chronology of twenty-eight communications/reminders issued to the Respondents between 22.08.2024 and 17.08.2025, seeking information, documents and control of assets, culminating in a specific letter dated 25.07.2025. It is submitted that the Respondents, vide order dated 05.08.2025 passed during the hearing of the connected Section 19(2) application, had undertaken before this Tribunal to comply with the RP's requirements within two weeks, being 19.08.2025, but have failed to honour the said undertaking despite the expiry of the stipulated period, amounting to a breach of undertaking and continued obstruction of the CIRP.

Analysis & Findings

22. We have heard the learned counsels for the parties and perused the pleadings, documents, and submissions placed on record.
23. It is the case of the Applicant that despite repeated written requests spanning over seven months, the Respondents being suspended directors, have failed to disclose and provide complete details of the Corporate Debtor's properties and assets, including an undisclosed flat and shop, advances aggregating over Rs. 44 Crores, and the gold bars. They have failed to hand over custody of the said gold bars, have not provided complete access to the books of account and Tally data, and have facilitated what appears to be a fraudulently executed Leave and License Agreement in respect of Flat No. 602. It is submitted that such conduct squarely falls within Section 70(1)(a), (b), (c) and (e) of the Code, and that this Tribunal ought to declare the Respondents' contravention thereof and direct compliance.

24. Per contra, it is the case of the Respondents that the reliefs sought under Section 70 of the Code are beyond the jurisdiction of this Tribunal, inasmuch as Section 70 is a penal provision, an offence under which can only be tried by the Special Court constituted under Section 236 of the Code, and this Tribunal, being a quasi-judicial authority of limited jurisdiction, cannot adjudicate, try, or render findings on such alleged offences. It is further submitted that the Respondents have fully cooperated and the allegations of misconduct are baseless.
25. In order to appreciate the rival contentions, it would be apposite to reproduce Section 70 of the Code:

“70. Punishment for misconduct in course of corporate insolvency resolution process.—

(1) On or after the insolvency commencement date, where an officer of the corporate debtor—

- (a) does not disclose to the resolution professional all the details of property of the corporate debtor, and details of transactions thereof, or any such other information as the resolution professional may require; or*
- (b) does not deliver to the resolution professional all or part of the property of the corporate debtor in his control or custody and which he is required to deliver; or*
- (c) does not deliver to the resolution professional all books and papers in his control or custody belonging to the corporate debtor and which he is required to deliver; or*
- (d) fails to inform the resolution professional the information in his knowledge that a debt has been falsely proved by any person during the corporate insolvency resolution process; or*
- (e) prevents the production of any book or paper affecting or relating to the property or affairs of the corporate debtor; or*
- (f) accounts for any part of the property of the corporate debtor by fictitious losses or expenses, or if he has so attempted at any meeting of the creditors of the corporate debtor within the twelve months immediately preceding the insolvency commencement date,*

he shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to

five years, or with fine, which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both:

Provided that nothing in this section shall render a person liable to any punishment under this section if he proves that he had no intent to do so in relation to the state of affairs of the corporate debtor.

(2) If an insolvency professional deliberately contravenes the provisions of this Part he shall be punishable with imprisonment for a term which may extend to six months, or with fine which shall not be less than one lakh rupees, but may extend to five lakh rupees, or with both.”

26. A plain reading of Section 70 discloses that it is a penal provision, placed under Chapter VII (Offences and Penalties) of Part III of the Code, which criminalises specific acts of misconduct by an officer of the corporate debtor during CIRP namely, non-disclosure of property details, non-delivery of property or books/papers in his control, failure to disclose false proof of debt, obstruction in production of books/papers, or fictitious accounting of property. The section prescribes the punishment (imprisonment and/or fine) for such offences, subject to the proviso protecting a person who proves absence of intent.
27. Applying the above provision to the facts of the present case, it is noted that the Applicant has placed on record an extensive chronology of correspondence commencing 22.08.2024 and continuing till 17.08.2025, seeking information, documents, and control of the Corporate Debtor's assets from the Respondents.
28. While the Respondents claim to have cooperated fully, it is not substantiated by placing any proof/document on record that confirms sharing of complete information regarding the sixth flat and shop, the advances aggregating over Rs. 44 Crores, the custody of the gold bars, the complete books of account/Tally data, and clarification regarding the Leave and License Agreement in respect of Flat No. 602, further the custody of all the assets of the Corporate Debtor has been provided. Therefore, it is noted that the Respondents have failed to establish, on record, due compliance with the Applicant's repeated requests. The Respondents' bald assertion of full cooperation is thus unsubstantiated on facts.

29. However, the question that arises is whether this Tribunal, being the Adjudicating Authority under the Code, has the jurisdiction to try the offence under Section 70 and pass an order declaring contravention thereof and imposing consequences. For this purpose, it is necessary to refer to Section 236 of the Code, which governs the trial of offences under the Code. Section 236 of the Code reads as under:

"236. Trial of offences by Special Court.—

(1) Notwithstanding anything in the Code of Criminal Procedure, 1973, offences under this Code shall be tried by the Special Court established under Chapter XXVIII of the Companies Act, 2013.

(2) No Court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Board or the Central Government or any person authorised by the Central Government in this behalf.

(3) The provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in case of a complaint under sub-section (2), the presence of the person authorised by the Central Government or the Board before the Court trying the offences shall not be necessary unless the Court requires his personal attendance at the trial."

Section 236 thus makes it explicit that offences under the Code, including those under Section 70, can be tried only by the Special Court constituted under Chapter XXVIII of the Companies Act ("**the Act**"), and that cognizance of any such offence can be taken only upon a complaint filed by IBBI, the Central Government, or a person authorised by the Central Government and by no other authority, including this Tribunal.

30. In the aforesaid circumstances, it is necessary to refer to the judgment of the Hon'ble NCLAT dated 21.02.2022 in **Vivek Prakash v. Dinesh Kr. Gupta (Liquidator) and Anr., Comp. App. (AT) (Ins.) No. 169 of 2022**, wherein it was held that:

*“7. In event requisites, cooperation and information not supplied and any offence is committed within the meaning of Section 70 of the Code, **it is true that neither the Adjudicating Authority nor Resolution Professional can initiate the prosecution under Section 70 and the prosecution under Section 70 can be initiated only in manner as provided under Section 236...***

....

*8. **Thus, prosecution under Section 70 has to be on complaint filed by the Board or Central Government or person authorized by the Central Government.** The submission of the Learned Counsel for the Appellant that Resolution Professional is not empowered to initiate the prosecution is correct. Learned Counsel for the Resolution-Resolution Professional has however, explained that no prosecution has been initiated under Section 70 by the Resolution Professional and he has only sent the information to the Board and it is for the Board to take appropriate action. **We, thus, clarify that any prosecution under Section 70 can be initiated only in accordance with the procedure as provided under Section 236(2) and not by the Resolution Professional.** However, with regard to any other offences including the offences under Indian Penal Code, if any complaint is filed by the Resolution Professional before a Police Station that is separate issue and has no concern with the offences under Section 70 and the order impugned shall have no bearing on such proceedings by a Police Station and they are independent proceedings which has to be considered and decided in accordance with law.*

9. We thus are of the view that subject to clarification as made above, there is no ground to entertain this Appeal. The Appeal is disposed of accordingly.”

[Bold for Emphasis]

31. The ratio of the aforesaid judgment squarely applies to the facts of the present case. It is authoritatively clarified therein that neither the Resolution Professional nor the Adjudicating Authority is empowered to initiate prosecution under Section 70 of the Code, and that such prosecution can be initiated only upon a complaint filed before the Special Court in the manner prescribed under Section 236(2), that is, by the

Board, the Central Government, or a person authorised by the Central Government.

32. It is also pertinent to refer to the judgment in **Lagadapati Ramesh & Ors. v. Ramanathan Bhuvaneshwari & Ors., Company Appeal (AT) (Ins.) No. 574 of 2019**, relied upon by the Applicant, wherein it was held that:

“27. The ‘offences and penalties’ as prescribed and dealt with in Chapter VII and appropriate order of punishment can be passed only by way of trial of offences by a Special Court in terms of Section 236 of the ‘I&B Code’. However, no such Court can take cognizance of any offence punishable under the Act, save on a complaint made by the ‘Insolvency and Bankruptcy Board of India’ (IBBI) or the Central Government or any person authorised by the Central Government in this behalf.

....

*28. Normally, the ‘IBBI’ or the ‘Central Government’ are not party to a ‘Corporate Insolvency Resolution Process’. Even if the matter is referred to ‘IBBI’, it cannot file straightaway a compliant before the Special Court without any investigation and only if a prima facie case is made out. **Therefore, the question arises as to how in such cases the matter can be referred to by the ‘Adjudicating Authority’ to the ‘IBBI’ or the ‘Central Government’ for trial of offences by Special Court under Section 236 of the ‘I&B Code’.***

29. In terms of sub-section (1) of Section 60, the ‘National Company Law Tribunal’ is the ‘Adjudicating Authority’ for the purpose of ‘I&B Code’. It is having concurrent jurisdiction as the ‘National Company Law Tribunal’ under the Companies Act, as also as the Adjudicating Authority under the ‘I&B Code’.

32. Section 212 does not empower the National Company Law Tribunal or the Adjudicating Authority to refer the matter to the Central Government for investigation by the ‘Serious Fraud Investigation Office’ even if it notices the affairs of the Company of defrauding the creditors and others.

33. However, investigation into affairs of company at the instance of the Tribunal has been prescribed under Section 213 and reads as follows:

....

34. In terms of clause (b) of Section 213, on an application made to it by any other person (‘Resolution Professional’) or

otherwise (suo motu), if the National Company Law Tribunal is satisfied that there are circumstances suggesting that (i) the business of the company is being conducted with intent to defraud its creditors, members or any other person or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive to any of its members or that the company was formed for any fraudulent or unlawful purpose as alleged by the 'Resolution Professional' in the present case and or by; (ii) persons concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards the company or towards any of its members etc., (which is also the allegation made by the 'Resolution Professional'), in such case, the Tribunal after giving a "reasonable opportunity" of being heard to the parties concerned, that the affairs of the company ought to be investigated by an 'Inspector' Or 'Inspectors' appointed by the Central Government and where such an order is passed, in such case, the Central Government is bound to appoint one or more competent persons as Inspectors to investigate into the affairs of the company in respect of such matters and to report thereupon to it in such manner as the Central Government may direct.

....

37. In view of the aforesaid position of law, we hold that the Tribunal/ Adjudicating Authority, on receipt of application/complaint of alleged violation of the aforesaid provisions and on such consideration and being satisfied that there are circumstances suggesting that defraud etc. has been committed, may refer the matter to the Central Government for investigation by an Inspector or Inspectors as may be appointed by the Central Government. On such investigation, if the investigating authority reports that a person has committed any offence punishable under Section 213 read with Section 447 of the Companies Act, 2013 or Sections 68, 69, 70, 71, 72 and 73 of the 'I&B Code', in such case, the Central Government is competent to refer the matter to the Special Court itself or may ask the Insolvency and Bankruptcy Board of India or may authorise any person

in terms of sub-section (2) of Section 236 of the 'I&B Code' to file complaint.

[Bold for Emphasis]

33. From the aforesaid judgment, it is evident that while it is beyond the jurisdiction of this Tribunal to try an offence under Chapter VII of the Code, this Tribunal, upon being prima facie satisfied that there exist circumstances suggesting a violation of Sections 68 to 73 of the Code, it may as per section 213 of the Companies Act, 2013, refer the matter either to the Central Government, so that appropriate action, including investigation and, where warranted, prosecution before the Special Court under Section 236, may be initiated in accordance with law. Reading the ratio in **Vivek Prakash** (supra) and **Lagadapati Ramesh** (supra) together, this Tribunal's role in the present proceedings is confined to recording its prima facie observations on the material on record and referring the matter onward. The jurisdiction to try the offence under Section 70 and imposition of punishment prescribed thereunder, vests exclusively in the Special Court under Section 236, upon a complaint filed by the IBBI or the Central Government.
34. Here we consider it necessary to refer Section 213(b) of the Companies Act, 2013:

“The Tribunal may,—

(b) on an application made to it by any other person or otherwise, if it is satisfied that there are circumstances suggesting that—

(i) the business of the company is being conducted with intent to defraud its creditors, members or any other person or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive to any of its members or that the company was formed for any fraudulent or unlawful purpose;

(ii) persons concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards the company or towards any of its members; or

(iii) the members of the company have not been given all the information with respect to its affairs which they might reasonably expect, including information relating to the

calculation of the commission payable to a managing or other director, or the manager, of the company,

order, after giving a reasonable opportunity of being heard to the parties concerned, that the affairs of the company ought to be investigated by an inspector or inspectors appointed by the Central Government and where such an order is passed, the Central Government shall appoint one or more competent persons as inspectors to investigate into the affairs of the company in respect of such matters and to report thereupon to it in such manner as the Central Government may direct:"

35. Section 213(b) enables this Tribunal, on an application by any person other than a member, and being satisfied that circumstances exist suggesting that the business of the company is being conducted with intent to defraud its creditors, members or other persons, or for a fraudulent or unlawful purpose, or that persons concerned in the management of its affairs have been guilty of fraud, misfeasance or other misconduct towards the company, to direct investigation into its affairs by Inspector(s) appointed by the Central Government. The Applicant, being the Resolution Professional, falls within the expression "any other person", as recognised by the Hon'ble NCLAT in ***Lagadapati Ramesh*** (supra). Therefore, it is evident that, under Section 213 this Tribunal may direct investigation of the affairs of the Corporate Debtor, by the Central Government.
36. In the present case, the non-disclosures on behalf of the Respondent No.2 to 4 as mentioned in para no.28 above, suggest a pattern of concealment and possible diversion of the Corporate Debtor's assets and receivables by the persons who were managing its affairs. The said conduct of the Respondent No.2 to 4 suggests that the affairs of the Corporate Debtor were not being run in accordance with the provisions of the Companies Act, 2013 and the assets of the Corporate Debtor which are reflected in the Balance Sheet require verification as per Section 213 of the Act. In this regard, an investigation by an Inspector appointed by the Central Government, with statutory powers to examine books, papers, and persons as per section 213 of the Act, is the appropriate mechanism to ascertain

the true state of affairs of the Corporate Debtor and to determine whether any offence has been committed that warrants prosecution under Section 236(2) of the Code.

37. We further note that the requirement of a reasonable opportunity of being heard under Section 213(b) stands satisfied, as the Respondents were served, appeared through counsel, filed their reply, and were heard on the maintainability and merits of the Application. We clarify that the observations herein are only prima facie, made for the limited purpose of forming an opinion under Section 213(b), and are not a conclusive finding against the Respondents or any other person, and the investigation shall proceed independently in accordance with law.
38. Accordingly, we are of the view that investigation under Section 213 of the Companies Act, 2013 ought to be carried out in respect of the Corporate Debtor. Therefore, in exercise of powers under Section 213 of the Act, this Tribunal passes the following directions:
 - a. The Applicant is directed to forward all material documents, which is connected to the present case to the Central Government along with a copy of this Order, within a period of 2 weeks from the receipt of the Certified Copy of this Order, with a copy to all the concerned Parties, duly following the principles of natural justice.
 - b. The Central Government is directed to adopt the procedure prescribed under Section 213 of the Companies Act, 2013, and the Central Government may get the affairs of the Corporate Debtor, namely, M/s Sudradh Constructions Private limited (presently undergoing CIRP) and those of the related parties, investigated by appointing Inspector(s) by following the due procedure prescribed under the law.
 - c. A copy of the Investigation Report shall be filed before this Tribunal within a period of two months from the date of receipt of this Order.
 - d. A copy of the Investigation Report shall also be forwarded to the appropriate authority under the Central Government for such action as may be deemed necessary.

- e. The Registry of this Tribunal is also directed to forward a copy of this Order forthwith to the Secretary and Joint Secretary, Ministry of Corporate Affairs, Government of India, 5th Floor, 'A' Wing, Shastri Bhawan, Dr. R.P. Road, New Delhi – 110001 for information and necessary follow-up action.
 - f. Further, the Registry is directed to forward a copy of this Order forthwith to IBBI for such action as it may deem fit.
39. Accordingly, this **I.A(I.B.C)/2138/2025** is listed for further consideration on 15.12.2026.

Sd/-
Vinay Goel
Member (Judicial)

Rashmi, LRA

Sd/-
Charanjeet Singh Gulati
Member (Technical)