

Insilco Limited

(Under voluntary liquidation wef 25.06.2021)

21st October 2022

The Department of Corporate Relations,
The Bombay Stock Exchange Limited,
Phiroze Jeejeebhoy Towers,
25th Floor, Dalal Street,
Mumbai – 400001

Scrip Code: 500211

Sub: Outcome of the Board Meeting dated 21st October 2021 pursuant to Regulation 30 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015

Dear Sir / Madam,

A Meeting of the Board of Directors of the Company was held on 21st October 2022 and the Board *inter alia* considered, approved and noted the following matters:

1. Appointment of New Liquidator

Mr. Chandra Prakash, existing Liquidator of the Company, has informed the Board of the order dated 11 October 2022 passed by the Disciplinary Committee of the Insolvency and Bankruptcy Board of India (“IBBI”) in exercise of the powers conferred under section 220 (2) of the Insolvency and Bankruptcy Code, 2016 (“Code”) read with regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 (“Order”). By way of the said Order, the IBBI has suspended the registration of Mr. Chandra Prakash as an insolvency professional, for a period of 1 (One) year.

The copy of the Order is attached.

In light of the Order, subject to approval of the members and creditors of the Company, the Board considered to replace Mr. Chandra Prakash with another Insolvency Professional as the liquidator of the Company.

In view of the above and subject to the approval by the members of the Company by a special resolution and subsequent approval by the creditors representing two-thirds in-value of the debt of the Company, the consent of the Board of Directors has been accorded to appoint Ms. Kapila Gupta, being an Insolvency Professional duly registered with the Insolvency and Bankruptcy Board of India and holding Registration Number IBBI/IPA-001/IP-P-02564/2021-2022/13955, as the Liquidator of the Company in the place of Mr. Chandra Prakash, for the purpose of Company’s voluntary liquidation under Section 59 of the Insolvency and Bankruptcy Code, 2016.

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CIN: L34102UP1988PLC010141

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(Under voluntary liquidation wef 25.06.2021)

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2. Convening of Extra-Ordinary General Meeting ('EGM')

Under the provisions of Section 59(3)(c) and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and the Companies Act, 2013 and the rules and regulations thereunder, an Extraordinary General Meeting ("EGM") of the Company be convened on 15th November 2022 at 02.00 P.M. as an electronic EGM through Video Conferencing

The Board of Directors have approved to convene EGM to seek approval of Members to approve the replacement of Mr. Chandra Prakash, Existing Liquidator of the Company and appointment of Ms. Kapila Gupta as the New Liquidator of the Company. The relevant details of EGM are as follows:

Date and Time of EGM	15th November, 2022 at 02.00 p.m.
Cut-off date	08th November, 2022
Remote e-Voting Start time	10th November, 2022 from 09.00 a.m. (IST)
Remote e-voting end time	14th November, 2022 till 05.00 p.m. (IST)

The Board Meeting commenced at 03.00 P.M. and concluded at 03.49 P.M.

The above is for your information and records.

Thanking You

Yours Faithfully
For Insilco Limited

GEETIKA
VARSHNEY

Digitally signed by
GEETIKA VARSHNEY
Date: 2022.10.21
18:16:34+05'30'

Geetika Varshney
Company Secretary and Compliance Officer

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INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
(Disciplinary Committee)

No. IBBI/DC/132/2022
11th October, 2022

Order

In the matter of Mr. Chandra Prakash, Insolvency Professional (IP) under section 220 of the Insolvency and Bankruptcy Code, 2016 read regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017.

This Order disposes of the Show Cause Notice (SCN) No. IBBI/IP/INSP/2021/75/3876/559 dated 25.07.2022 issued to Mr. Chandra Prakash, R/o 812, 8th Floor, Indra Prakash Building, Barakhamba Road, New Delhi- 110001 who is a Professional Member of ICSI Institute of Insolvency Professionals (ICSI-IIP) and an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (IBBI) with Registration No. IBBI/IPA-002/IP-N00660/2018-19/12023.

1. Background

- 1.1. The Hon'ble NCLT, Principal Bench, New Delhi (AA) *vide* order dated 10.01.2019 admitted the application under section 7 of the Insolvency and Bankruptcy Code, 2016 (Code) for initiating Corporate Insolvency Resolution Process (CIRP) of M/s Granite Gate Properties Private Limited (CD). Mr. Chandra Prakash was appointed as Resolution Professional replacing Mr. Prabhjot Singh Soni *vide* AA's order dated 27.11.2019.
- 1.2. The IBBI, in exercise of its powers under section 218 of the Code read with the IBBI (Inspection and Investigation) Regulations, 2017 appointed an Inspecting Authority (IA) to conduct the inspection of Mr. Chandra Prakash. In compliance with regulation 6(1) of Inspection Regulations, IA shared the Draft Inspection Report (DIR) with Mr. Chandra Prakash on 27.07.2021 to which response was received on 12.08.2021. Thereafter, IA submitted the Inspection Report (IR) in accordance with regulation 6(4) of the Inspection on 01.09.2021.
- 1.3. The IBBI issued the SCN to Mr. Chandra Prakash on 25.07.2022, based on the findings in the inspection report in respect of his role as an RP in the CIRP of CD and material available on record. Mr. Chandra Prakash submitted preliminary letter on 05.08.2022 and reply to SCN *vide* email dated 30.08.2022.
- 1.4. The IBBI referred the SCN, response of Mr. Chandra Prakash to the SCN and other material available on record to the Disciplinary Committee (DC) for disposal of the SCN in accordance with the Code and Regulations made thereunder. Mr. Chandra Prakash availed opportunity of e-hearing before the DC on 07.09.2022 where he was represented by Mr. Sahil Sethi, Advocate who made submissions during the e-hearing.
- 1.5. The DC has considered the SCN, the reply to SCN, oral and written submissions of Mr. Chandra Prakash, other material available on record and proceeds to dispose of the SCN.

2. Alleged Contraventions, Submissions, Analysis and Findings

The contraventions alleged in the SCN and Mr. Chandra Prakash's written and oral submissions thereof are summarized as follows.

3. Contravention-I

- 3.1 Mr. Prakash appointed M/s Ibay Capital to provide professional support services. It was observed from the documents mentioned below that M/s Ibay Capital is a related party to him:
- a. Mr. Prakash's visiting card displaying the logo of M/s Ibay Capital
 - b. It is seen that the address of M/s Ibay Capital has been shown as "58 B, Pocket 4, Mayur Vihar Phase 1, Delhi-110091". And as per the information provided by Mr. Prakash to the board, he has mentioned his permanent and correspondence address as "58 B, Pocket 4, Mayur Vihar Phase 1, Delhi-110091". The two are same.
 - c. The proprietor of M/s Ibay Capital is one Mr. Indra Bhushan Prasad, son of Mr. Balram Prasad. As per the information provided by him to the Board, his father's name is also Mr. Balram Prasad.
 - d. The third-party websites show that the registered address of M/s Ibay Capital as 58 B, Pocket 4, Mayur Vihar Phase 1, Delhi-110091, name of the CEO as "Chandra Prakash" and Mr. Chandra Prakash founded M/s Ibay Capital in 2012.
- 3.2 The Board noted that IA *vide* email dated 24.08.2021 requested Mr. Prakash to provide the KYC of M/s Ibay Capital and also to provide an undertaking stating to the effect that he is not a related party to the M/s Ibay Capital. But he failed to provide the KYC documents relating to M/s Ibay Capital and also failed to provide an undertaking regarding the same.
- 3.3 It is evident from the above-mentioned facts and supporting documents that Mr. Prakash knowingly and deliberately concealed the fact that M/s Ibay Capital is a related party. Further, he deliberately did not cooperate with IA in order to prevent IA from finding the nexus between him and M/s Ibay Capital. Hence, engaging a related entity is not only unjustified but also malafide.
- 3.4 An IP is obliged under section 208(2)(a) of the Code to take reasonable care and diligence while performing his duties, including incurring expenses. The Board circular no. IBBI/IP/013/2018 dated 12.06.2018 clearly specifies that not only fee payable to IP is reasonable but also other expenses incurred by him are reasonable. In view of the above, the Board is of the *prima facie* view that Mr. Prakash has *inter alia* violated clauses 1, 2, 12, 13, 14 and 23 B of the Code of Conduct as specified in the First Schedule of IP Regulations (Code of Conduct) and Board Circular no. IBBI/IP/013/2018 dated 12.06.2018.

Submissions

- 3.5 With respect to violation of Clause 23B of the Code of Conduct forming part of the First Schedule of IP Regulations, Mr. Prakash submitted that section 28(1) (f) of the Code, which is a notwithstanding clause, allows a RP to enter into related party transactions by approval of the CoC. In view of the above and the IBBI Regulations, including the IP Regulations, being subservient to the Code, the said Clause 23B has to be read along with section 28(1) (f) of the

Code, and not in contradiction thereto. He submitted that he engaged services of M/s Ibay Capital with the approval of the CoC, in terms of section 28(1) (f) of the Code.

- 3.6 Mr. Prakash submitted that appointment of M/s Ibay Capital for back-office support services to him was approved by the CoC exercising its commercial wisdom in the 13th meeting of the CoC. The decision of the CoC was based on assessment of what is in the interest of the CIRP, and the underlying peculiar facts of the case. The payment to M/s Ibay Capital was solely for the work rendered by it to the RP. There is no pecuniary relationship between him and M/s Ibay Capital. The transactions and business between the CD and M/s Ibay Capital was carried out on arm's Length basis.
- 3.7 That M/s Ibay Capital had in principle agreed to provide back-office support services knowing that the CD would not be in a position to make payments, at least for the initial few months. It was only with the assistance of the team deployed by M/s Ibay Capital that Mr. Prakash was able to successfully and effectively carry out the required activities and perform his duties under the Code and applicable Regulations despite such extreme circumstances, and turnaround the state of affairs of the CD resulting in a resolution plan which met the approval of the CoC and is presently pending approval of the AA.
- 3.8 Mr. Prakash submitted that SCN has mistakenly alleged that vide email dated 24.08.2021, he was, inter alia, asked to provide KYC details of M/s Ibay Capital. Bare perusal of the email dated 24.08.2021 sent to him would make it evident that no such KYC details were asked from him. He did not knowingly make any misleading statement to the Board. He had timely and proactively cooperated with the Inspecting Authority and provided all information sought. He further submitted that the alleged visiting card annexed to the SCN is a forged document and has been prepared by a third-party, is also evident from the fact that M/s Ibay Capital is a sole proprietorship. Thus, he could not have been the managing director and CEO of M/s Ibay Capital as the managing director and CEO of a sole proprietorship would naturally be the sole proprietor himself.
- 3.9 Mr. Prakash submitted that he was working with the HDFC Bank in 2012, and had used the common correspondence address for the time being, as he did not have any permanent address of his own. Since then, he has shifted his rented office address at 812, 8th Floor, Indra Prakash Building, Barakhamba Road, New Delhi which is registered address with IBBI.
- 3.10 Mr. Prakash referred to the DC Order (IBBI/DC/101/2022) dated 20.05.2022 and the DC Order (IBBI/DC/62/2021) dated 01.01.2021 wherein the concerned RPs were also charged with engaging related parties in CIRP and DC had exonerated the concern RPs, taking into consideration the factors which are not different in principle to the facts of the present case. He also referred to the Judgment passed by the Hon'ble NCLAT in Mr. Jagesh M. Sarghrajka Vs Monitoring Agency nominated by CoC of the matter of Ariisto Developers Pvt. Ltd. [CA (AT) Insolvency No.392 of 2021) wherein the Hon'ble NCLAT has observed that a circular cannot be equated with rules & regulations prescribed in the provisions of the Code. At the most, the

Circular can be treated as mere guidance.

4. Contravention-II

- 4.1 The Board circular no. IP/005/2018 dated 16.01.2018, mandates IP to disclose his relationship, if any, with other professional(s) engaged by him to Insolvency Professional Agency of which he is a member, within 3 days of appointment of such professionals. The Board observed that the appointment of M/s Ibay Capital and its fees was approved by Committee of Creditors (CoC) in their 13th meeting held on 26.12.2019, to provide professional support services to Mr. Prakash for a fee of Rs. 6 lakhs per month. It was observed that the disclosure with respect to the engagement of M/s Ibay Capital has not been made on the website of IPA where Mr. Prakash is enrolled with despite the payment of significant amount of fee to it. In view of the above, the Board is of the *prima facie* view that Mr. Prakash has *inter alia* violated clauses 1, 2, 5, 9, 13 and 14 of the Code of Conduct of the Code of Conduct as specified in the First Schedule of IP Regulations (Code of Conduct) and IBBI circular no. IP/005/2018 dated 16.01.2018.

Submissions

- 4.2 Mr. Prakash submitted that para 3 of circular the Board circular no. IP/005/2018 dated 16.01.2018 mandates an IP to disclose his relationship, if any, with (a) the Corporate Debtor, (b) Financial Creditor(s), (c) Interim Finance Provider(s), (d) Prospective Resolution Applicant(s) and (e) Registered valuer(s)/ Accountant(s)/Legal Professional(s) and other Professional(s) engaged by him. However, M/s Ibay Capital, were appointed by him not as “professionals” but to provide back office/support service. The above is also evident from the resolution passed by the CoC in its 13th Meeting, which clearly approved appointment of M/s Ibay Capital to provide back-office support services. Therefore, the assistance provided by M/s Ibay Capital does not fall within the purview of the said circular, and hence, the requirement to disclose relationship does not arise in this case. Mr. Prakash cited the DC Order dated 01.01.2021 in case of Mr. Anil Goe1, wherein the concerned RP was also charged with engaging related party in CIRP and not making the disclosure with IPA. In said case, even the approval of the CoC was not taken. However, the Learned DC had exonerated the concerned RP, taking into consideration the factors which are not different in principle to those of the present case. In fact, the Hon'ble Board had categorically held that such appointments do not fall within the purview of Circular dated 16.01.2018.

Analysis & Findings -I and II

- 4.3 Mr. Prakash stated before the DC during oral hearing that M/s Ibay Capital was his brother's firm. Section 5(24A) of the Code explains related party in relation to an individual as a person who is a relative of the individual or a relative of the spouse of the individual. The DC observes that Mr. Prakash has not disclosed his relationship with M/s Ibay Capital before CoC while proposing appointment of M/s Ibay Capital. Since Mr. Prakash has appointed the related party, it requires the approval of the CoC as per section 28(1)(f) of the Code. The DC further notes the para 3 of Board circular no. IP/005/2018 dated 16.01.2018 which provides that an Insolvency Professional shall disclose his relationship with, *inter alia*, other Professional(s) engaged by RP. Thereby, the assistance/support service provided by M/s Ibay Capital would fall within the purview of the said circular. Hence, Mr. Prakash has *inter alia* violated clauses 1, 2, 5, 9, 12, 13,

14 and 23 B of the Code of Conduct as specified in the First Schedule of IP Regulations and IBBI circular no. IP/005/2018 dated 16.01.2018 and circular no. IBBI/IP/013/2018 dated 12.06.2018.

5. Contravention -III

5.1 As per clause 21 of Code of conduct, an IP must ensure confidentiality of the information relating to the insolvency resolution process at all times. It is observed that confidential data like minutes of CoC meetings, evaluation matrix etc. of the CD were uploaded on the website (<https://ggppl.cirpsolutions.com/>) of the CD, which were accessible for general viewing of the public. As an IP you are duty bound to maintain confidentiality of the details of the CD. However, since the details of the CD including various confidential information were uploaded on the website without restricted access, the same defeats Clause 21 of the Code of Conduct. Furthermore, the website also discloses the Code compliance table of resolution applicants which intrinsically reflects details of the plans. In view of the above, the Board is of the *prima facie* view that Mr. Prakash have *inter alia* violated clauses 1, 2, 14 and 21 of the Code of Conduct.

Submissions

5.2 Mr. Prakash has submitted that considering the peculiarity of the facts, and the huge number of stakeholders (including homebuyers) only the relevant and non-confidential documents were shared on website of the Corporate Debtor, and no confidential detail of home buyers, or otherwise, was shared on website. He further submitted that confidential documents such as Information Memorandum, RFRP, fair and liquidation value, etc. were never shared on the website, and were shared only with the relevant stakeholders after receipt of undertakings of confidentiality from the respective stakeholders as prescribed under the CIRP Regulations.

5.3 Regarding other documents like minutes of meetings and compliance letters are concerned, Mr. Prakash submitted that CoC in the instant matter comprises of nearly 3000 creditors. Therefore, the website is the only feasible mechanism to interact and share relevant information with such a huge number of creditors. Thus, the minutes and notices of the CoC meetings were regularly uploaded on the website, as per the practise established by the erstwhile IRP, who started the practice of uploading minutes of the CoC meetings on the website. Further, since the creditors were anxious to know the deficiencies in the resolution plans submitted by the proposed resolution applicants, he also shared the compliance letters on the said website and was done on good faith.

Analysis & Findings

5.4 The DC notes the submission of Mr. Chandra Prakash that confidential documents such as Information Memorandum, RFRP, fair and liquidation value, evaluation matrix etc. has not been shared by him on the said website. Further, it is observed that for communicating more than 3000 creditors, the website is the only feasible mechanism to interact and share relevant information with such a huge number of creditors. Thus, the minutes and notices of the CoC meetings were regularly uploaded on the website, as per the practise established by the erstwhile IRP, who started the practice of uploading minutes of the CoC meetings on the website. Keeping in view the interest and convenience of the thousands of homebuyers who have been provided an

accessible and verifiable platform to track updates, the DC accepts the submission of Mr. Prakash.

6. Contravention-IV

- 6.1 Mr. Prakash has appointed iVAS Partners for ascertaining the fair value and liquidation value of the assets of the CD. It is, however, observed that fees of the iVas partners was not ratified by CoC. His conduct of appointing valuers without ratification of fees by the CoC is in violation of regulation 34 of CIRP Regulation which provides that CoC shall fix the expenses to be incurred by the RP and the expenses shall constitute IRPC.
- 6.2 The Board further observed that Mr. Prakash failed to file required disclosures with IPA regarding appointment of the aforesaid professional. The Board circular No. IP/005/2018 dated 16.01.2018, mandates IP to disclose his relationship, if any, with CD, with other professional(s) engaged by him to Insolvency Professional Agency of which he is a member, within 3 days of his appointment. Furthermore, on perusal of valuation report dated 13.05.2020, it was observed that M/s iVAS Partners had inspected the site on 09.01.2020 whereas the date of conducting valuation was 10.01.2019, both dates much prior to date of engagement of M/s iVAS Partners. Thus, the documents placed on record reflect discrepancy. In view of the above, the Board is of the *prima facie* view that you have *inter alia* violated regulation 34 of CIRP Regulations read with clauses 1, 2, 13 and 14 of the Code of Conduct and IBBI circular no. IP/005/2018 dated 16.01.2018.

Submissions

- 6.3 Mr. Prakash submitted that M/s iVas Partners were not appointed by him to determine the fair and liquidation value of the CD or to conduct any valuation as required under the Code or the applicable regulations. M/s iVas Partners were engaged to conduct valuation of a specific portion of the project, namely iRing Commercial Complex, to enable him to form an opinion whether the transaction entered by the CD with M/s Shomit Finance with respect to the said complex is undervalued and avoidable or not. The said avoidance application filed by him is concerned with an amount of approx. Rs. 100 Cr for which 90% realizable value shall go to home buyers as per approved resolution plan.
- 6.4 He submitted that M/s CBRE, which is one of the world's biggest real estate consultancy firm, had quoted an amount of Rs. 11.75 lakhs *vide* quote dated 09.12.2019 for both cost to complete and valuation of iRing Project. He negotiated and brought down the fee for both these activities to Rs. 7 Lacs and Rs. 1.3 Lacs respectively. M/s iVAS Partners, were recommended by M/s CBRE itself, whose appointment was duly approved by the CoC in the 13th meeting of the CoC. It was the same CBRE which, in turn, suggested and got the valuation done by M/s iVAS Partners. He had duly informed the CoC of the report submitted by M/s iVAS Partners in the 17th Meeting of the CoC, and also informed that creditors can obtain copy of the Report filed by the M/s iVAS Partners (referred to as CBRE in the minutes) by filing undertakings of confidentiality. Therefore, it is evident that the CoC was well aware of appointment of M/s iVAS Partners for conducting the valuation of the commercial complex iRing.

- 6.5 Mr. Prakash submitted that since M/s iVAS Partners were engaged by him in ordinary course of business and operation of the CD, there was no requirement to get the same approved by the CoC. The expense incurred by him by virtue of engagement of M/s iVAS Partners does not form part of the resolution professional costs. On the other hand, the said expense is an operational expense, as the CD was not aware of the value of the said complex, which forms an integral part of its assets, and the valuation was thus required to find out the fair market value of the same.
- 6.6 Mr. Prakash submitted that para 2 of Board circular No. IP/005/2018 dated 16.01.2018 requires an IP to make disclosures as specified in Para 3 to 5 thereunder. Whereas para 3 requires disclosure of relationship “if any” between the insolvency professional and the CD, other Professional, etc. Similarly, para 4 requires disclosure of relationship “if any” between the other professionals engaged by him with himself, the CD, etc. Since there is no relationship between him or the CD with M/s iVAS Partners which is required to be disclosed under said circular, there cannot be any violation by him with respect to the same.

Analysis & Findings

- 6.7 On perusal of the minutes of 13th CoC meeting, the DC observes that CBRE was appointed to determine the cost of completion of the projects for a fee of Rs. 7,00,000/-. Further, in the minutes of 17th CoC meeting, it was recorded that the cost of completion report and final valuation report of 'iring' commercial complex were submitted by CBRE. Thus, it is observed that there was no deliberation with CoC with regard to engagement of M/s iVas Partners. Based on documents made available, it is inferred that neither the CoC approved the appointment of M/s iVas Partners nor the fees paid to them. However, the Valuation report was submitted by M/s iVas Partners instead of CBRE (whose appointment was approved by the CoC). Thus, Mr. Prakash has tried to mislead the DC by stating that “*M/s iVAS Partners, were recommended by M/s CBRE itself, whose appointment was duly approved by the CoC*”
- 6.8 Further, with regard to submission of Mr. Prakash that M/s iVAS Partners was engaged by him in ordinary course of business and operation of the CD for which there is no requirement of CoC approval, it may be noted that Regulation 34 of the CIRP Regulations states that “*The committee shall fix the expenses to be incurred on or by the resolution professional and the expenses shall constitute insolvency resolution process costs.*” Explanation provided under Regulation 34 of the CIRP Regulations clarifies that “expenses” includes “other expenses to be incurred by the resolution professional.” Thus, it is clear that RP is mandated to take approval of the CoC for the expenditure incurred to run the CD as a going concern. Therefore. the contention of Mr. Prakash that he as an RP is not required to take approval of the CoC for going concern expenses cannot sustain. If Mr. Prakash’s stand is accepted, it will lead to RP’s spending arbitrary amounts in the name of going concern expenses. The stand taken by Mr. Prakash that he as RP does not need the approval of the CoC, is not only against the provision of Regulation 34 of the CIRP Regulations but also against the spirit of the Code. Hence, the DC finds that Mr. Prakash has violated Regulation 34 of the CIRP Regulations.
- 6.9 In view of the above, the DC finds that Mr. Prakash has *inter alia* violated regulation 34 of CIRP Regulations read with clauses 1, 2, 13 and 14 of the Code of Conduct.

7. Grievance from Lotus Panache Residents.

- 7.1 The Board has also taken into account a grievance from Lotus Panache Residents in the aforementioned CD and reply of Mr. Chandra Prakash thereupon. On the basis of material available on record, it is observed that the erstwhile IRP entered into an agreement with Gravity Facility Management Solutions Pvt. Ltd. (**Gravity**) for maintenance of the entire resident side of the project as well as for payment of electricity and water charges. However, the residents have alleged that an amount of around Rs. 2 crores out of money collected by Gravity for maintenance, electricity and water charges has been invested in the under-construction project. It is submission of Mr. Prakash to the Board that the money has indeed been diverted by Gravity, but he denied that the diverted money has been utilised in under-construction project. His submission to the Board also states that despite the representative of residents being joint signatories alongwith Gravity for operating the dedicated account wherein residents were required to deposit maintenance charge, Gravity has diverted the money.
- 7.2 The Board also noted that Mr. Prakash was appointed as RP by order dated 27.11.2019. As per clause (1) of section 25 of the Code, it was his responsibility and duty to preserve and protect the assets of the CD, including the continued business operations of the CD. Further, in terms of sub-clause (a) of clause (2) of Section 25, it was his primary duty to take immediate custody and control of all the assets of the CD, including the business records of the CD. It is observed that despite his admission that Gravity has diverted the money, he failed to take any action. He neither filed any application before AA in this regard nor filed any complaint or case before other authorities for criminal action against the defaulter and for recovery of that amount.

Submissions

- 7.3 Mr. Prakash submitted that Gravity was appointed for streamlining payment of maintenance and responsibility for payment of statutory dues arising at the resident by the erstwhile IRP. As per the agreement, representatives of homebuyers were made joint-signatories along with representatives of Gravity to the account maintained by Gravity, to ensure transparency. Mr. Prakash submitted that he was not signatory nor had access to the said account as the same was being handled by the homebuyers themselves. When he took charge of the CD, he amended the agreement between the CD and Gravity to, *inter alia*, ensure that any deficit in fixed water and electricity charges (if any) is borne by Gravity itself, out of its own profits.
- 7.4 Mr. Prakash submitted that it would be incorrect to suggest that he has failed to take requisite action against Gravity. That immediately upon being made aware of irregular payment of water dues by Gravity, he issued notices to Gravity and persuaded Gravity to make payments to NOIDA towards water charges. Consequently, payment of Rs. 20,14,836.00 was made in January 2022. Further, when Gravity expressed inability to immediately make payment of the water dues to NOIDA, under the pretext that a portion of the amount collected from residents under the head of 'water charges' had to be apportioned to other capital expenses required in the project, he terminated the agreement with Gravity and appointed a new service provider, agreement with whom clearly stipulates that amounts collected from resident homebuyers shall be collected in the name of the CD so that the same are in the control and custody of the RP. Furthermore, he has issued two notices through emails to Gravity calling upon it to submit its bank statement in

support of its claim that a portion of water charges collected from residents had to be apportioned towards meeting necessary capital expenses of the project. It is submitted that when Gravity failed to respond with its bank statements to support its claim, despite reasonable opportunity, he in the interest of all the CD and its homebuyers issued instructions for initiation of appropriate legal proceedings before the Hon'ble District Court, Gautam Buddh Nagar, Noida, Uttar Pradesh against Gravity seeking recovery of an amount of Rs. 60,06,143, which as per the working of the accounts department of the CD is the balance between the amount collected from residents under water charges and the amount paid by Gravity to NOIDA towards water charges. It is submitted that the amount of Rs. 2 Crores claimed to have been diverted by M/s Gravity according to grievance addressed by a resident has to legitimate basis and no supporting document has been brought to his attention.

Analysis & Findings

- 7.5 The DC observes that Mr. Prakash was appointed as RP on 27.11.2019. As per submission made by Mr. Prakash, the DC observes that Mr. Prakash was informed by NOIDA regarding non-payment of 'water charges' dues in the 14th CoC Meeting dated 10.01.2020 and email was sent by Mr. Prakash to Gravity directing them to make payments. Further in September 2021, Mr. Prakash again received some complaints by few residents for non-payments of dues by Gravity. Accordingly, Mr. Prakash sent a notice to Gravity on 23.09.2021 to provide income and expenditure statement along with proofs of payments and affirmative schedules on how outstanding payments shall be made. Mr. Prakash conducted various meetings with Gravity and send email on 24.11.2021 to arrange demand draft payable to NOIDA.
- 7.6 Subsequently, the Board had received the grievance in the instant matter on 01.02.2022. Mr. Prakash has submitted that due to inaction on part of Gravity, he had terminated the agreement with Gravity with effect from 01.02.2022. Mr. Prakash has further submitted that due to failure of Gravity to submit the bank statement in support of claim that portion of amount collected from residents under the head of water charges had apportioned to other capital expenses in the project, Mr. Prakash had issued notice to Gravity for initiation of legal proceedings against Gravity. The DC observes that despite admission by Mr. Prakash that Gravity has diverted the money, Mr. Prakash had not filed any complaint or case before appropriate authorities against the defaulter and for recovery of that amount.

8. Order

- 8.1 On the basis of aforesaid analysis, it is found that Mr. Prakash had neither disclosed the appointment of his brother through M/s Ibay Capital before the CoC nor made relationship disclosure of engagement of M/s Ibay Capital on the website of the IPA. Further, the valuation report was submitted by M/s iVas Partners whose appointment or fee was not approved/ratified by the CoC. Mr. Prakash has also failed to take appropriate action against the Gravity for its inaction in terms of payment of dues of water charges.
- 8.2 In view of the above, the DC, in exercise of the powers conferred under section 220 (2) of the Code read with regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017

hereby suspends the registration of Mr. Chandra Prakash having Registration No. IBBI/IPA-002/IP-N00660/2018-19/12023 for a period of one year.

- 8.3 This Order shall come into force on expiry of 30 days from the date of its issue.
- 8.4 A copy of this order shall be sent to the CoC of all the Corporate Debtors in which Mr. Chandra Prakash is providing his services, if any. The CoC may decide whether to continue his services or not. In case, CoC decide to discontinue his services, CoC may file an appropriate application before AA.
- 8.5 A copy of this order shall be forwarded to the ICSI Institute of Insolvency Professionals where he is enrolled as a member.
- 8.6 A copy of this Order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal, for information.
- 8.7 Accordingly, the show cause notice is disposed of.

-Sd-

(Ravi Mital)
Chairperson, IBBI

Dated: 11th October, 2022
Place: New Delhi