

INSTITUTE OF INSOLVENCY PROFESSIONALS

A wholly owned subsidiary of ICSI and registered with IBBI

Learning Curve-513

March 11, 2021

CIRP cannot be kept in abeyance if IRP does not accept the assignment.

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| CASE TITLE | Aashray Social Welfare Society and Ors. v. Saha Infratech Pvt. Ltd. ¹ |
| CASE CITATION | Company Appeal (AT) (Insolvency) No. 166 of 2021 |
| DATE OF ORDER | 08.03.2021 |
| COURT/TRIBUNAL | NCLAT |
| CASES REFERRED | - |
| SECTION/REGULATION REFERRED | Section 7 of IBC |

Brief of the case:

CIRP proceedings were initiated against the CD and AA had passed an order for appointment of an IP. The appointed IP had then placed their unwillingness to accept the assignment. The AA heard the IRP and IRP stated that he does not want to function as IRP of the Corporate Debtor but instead of appointing another IRP the Adjudicating Authority has gone into the questions as to why the said IRP is not accepting the Appointment and asking said IRP why contempt be not initiated against him.

Decision:

Hon'ble NCLAT disposed off the appeal with direction that a new IRP be appointed and held that,

*“6. We dispose the Appeal with directions to the Ld. Adjudicating Authority to urgently pass whatever orders the Adjudicating Authority wants to pass with regard to appointment of IRP in place of Mr. X * who it is stated has conveyed unwillingness to take up the assignment. If the Adjudicating Authority wants to take action of Contempt regarding the conduct of IRP Mr. X it would be open for the Adjudicating Authority to proceed with the steps regarding Contempt but CIRP initiated on 28.02.2020 cannot be kept in abeyance. The Adjudicating Authority can consider referring matter of the IRP Mr. X in to IBBI also if it wants, but should immediately pass Orders to substitute.”*

* for the purpose of this Learning Curve, the name of the IP has been redacted.



QR CODE FOR FULL ORDER/JUDGEMENT:

¹ <https://ibbi.gov.in/uploads/order/aaa59ca4b4f7cb4c62dd81747bd909bf.pdf>