

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
(Disciplinary Committee)

No. IBBI/DC/04/2018
3rd May, 2018

ORDER

(Under sub - regulation (7) of regulation 11 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016)

1. Background

1.1 The Insolvency and Bankruptcy Board of India (**Board**) issued a show-cause notice (**SCN**) dated 8th March, 2018 to Ms. Bhavna Sanjay Ruia, Vishal House, 1st Floor, Plot No. 33, Sector - 19C, Off Palm Beach Road, Vashi, Navi Mumbai, Maharashtra - 400705, who is a Professional Member of the ICSI Institute of Insolvency Professionals and an Insolvency Professional (**IP**) registered with the Board with registration number IBBI/IPA-002/IP-N00371/2017-2018/11065. The Board referred the SCN, response of Ms. Ruia to the SCN and other material available on record to the Disciplinary Committee (**DC**).

1.2 The DC notes that an operational creditor, namely, Shri Shrikrishna Rail Engineers Private Limited filed an application under section 9 of the Insolvency and Bankruptcy Code, 2016 (**Code**) before the Hon'ble Adjudicating Authority for initiating corporate insolvency resolution process (**CIRP**) of a corporate debtor, namely, Madhucon Projects Limited. The applicant proposed Ms. Ruia as the Interim Resolution Professional (**IRP**) for CIRP of Madhucon Projects Limited. Ms. Ruia filed the 'Term Sheet for Professional Assignment' dated 3rd November, 2017, which envisaged her appointment as IRP and also as Resolution Professional (**RP**) for the CIRP. While the application was under consideration, the Hon'ble Adjudicating Authority issued an order dated 22nd November, 2017 in the matter of Shri Shrikrishna Rail Engineers Private Limited vs. Madhucon Projects Limited, [CP(IB) SR No. 4322/9/HDB/2017] where it observed as under: -

"3. The Operational Creditor has proposed Ms. Bhawna Sanjay Ruia as Interim Resolution Professional of Madhucon Projects Limited. The IRP has filed Term Sheet for Professional Assignment dated 03.11.2017. While perusing records, the Adjudicating Authority was alarmingly shocked/surprised to notice that the Professional fee quoted by the IRP is Rs. 5 Crores till the First Committee of Creditors Meeting. Further it is noticed that fee for the subsequent months as IRP/RP on a per month basis is R. 1.75 Crores. The Adjudicating Authority has also noted that total outstanding debt amount from the Corporate Debtor is only Rs. 4.16 Crores (including interest and retention money). It is also observed that the fee proposed by IRP works out to Rs. 14.00 Crores approx., apart from other incidental expenses.

4. From the Annual Report of 2015-16 available publicly, the Adjudicating Authority also noted that MD & CEO of Corporate Debtor was appointed with monthly remuneration of Rs.5 lakhs inclusive of all allowances and perquisites for a period of three years w.e.f. 01.05.2016. Accordingly, the remuneration of MD & CEO for the whole year is Rs.60 lakhs. Further, it is also noted that for the other two Whole Time directors, the remuneration per annum is Rs.50 lakhs. Accordingly, remuneration for MD & CEO and two Whole Time Directors works out to Rs.1.10 crores per annum, whereas the proposed IRP has quoted exorbitant amount as stated above.

5. In view of the above, the Adjudicating Authority is of the considered view that remuneration quoted by the IRP is quite exorbitant and the same needs to be referred to IBBI. Though there are no prescribed set of Rules and Regulations/Guidelines at present with regard to the fee payable to the IRP/RP, the Adjudicating Authority is of the considered view that the fee quoted by the professionals should be reasonable, commensurate with work to be handled. In view of the above we recommend the matter to IBBI for taking appropriate action/remedial measure against the proposed IRP including disciplinary action if any, as deemed fit.”.

1.3 The DC further notes that the Board took on record the order dated 22nd November, 2017 of the Hon’ble Adjudicating Authority. On consideration of responses dated 28th January, 2018 and 14th February, 2018 of Ms. Ruia on the observations of the Hon’ble Adjudicating Authority and other material available on record, the Board formed a prima facie opinion that Ms. Ruia has contravened the provisions of regulation 7(2)(b) of the IBBI (Insolvency Professionals) Regulations, 2016 (**Regulations**) and clauses 2, 5, 10 and 25 of the Code of Conduct specified there under, which make her a person not ‘fit and proper’ to continue as an IP. Accordingly, it issued the SCN asking her to show cause why suitable actions permissible under section 220(2) of the Code, including cancellation of registration, should not be taken against her.

1.4 Ms. Ruia responded to the SCN vide letter dated 22nd March, 2018. Further, she availed of an opportunity of personal hearing on 19th April, 2018 along with her learned Counsel, Ms. Prachi Manekar Wazalwar. She has submitted further written submission vide letter dated 21st April, 2018.

2. Show Cause Notice

The DC notes from the SCN and the term sheet for professional assignment, as under:

- a) Ms Ruia contracted a professional IRP fee of Rs.5 crore till the first meeting of the Committee of Creditors (**CoC**) and a monthly fee of Rs.1.75 crore for the subsequent months as IRP/RP. This is exclusive of (a) Government taxes, as applicable, (b) professional fee for Valuers, Advocates, Solicitors, Forensic Auditors, Consultants and Advisers, (c) fee for representation before the NCLT, (d) expenses on public announcement and (e) all out of pocket expenses. The Board found professional fee of such magnitude for her services as IRP / RP exorbitant.
- b) Ms. Ruia signed the term sheet for the services as RP with the applicant operational creditor who has no role whatsoever under the law in the appointment of RP or fixing of fees of the RP. Accordingly, Ms. Ruia locked in her appointment as RP even before the commencement of the CIRP. An agreement with an operational creditor, who is not legally competent to appoint Ms. Ruia as RP, is an attempt by Ms. Ruia to pre-empt the CoC of its legitimate rights to appoint an IP of its choice as RP and fix fees of the RP. This attempt indicates the possibility of collusion with operational creditor and compromises independence of Ms. Ruia as an IP.
- c) Thus, Ms. Ruia contracted a fee which is not a reasonable reflection of her work and compromised her independence and thereby contravened provisions of the regulations specified in the SCN.

3. Submissions by Ms. Ruia

3.1 As regards the reasonableness of fee, Ms. Ruia has submitted as under:

- i) Reply dated 28th January, 2018

- a) The fee of IRP / RP, which is all inclusive, is not comparable with the salary and allowances of executives, who enjoy good amount of allowances and perquisites.
 - b) She can not be sure of cooperation of employees who are loyal to existing management and hence she will be required to deploy professionals to act as CEO's and even additional staff. Payments to them are included in her fee.
 - c) Her fee is subject to ratification by the CoC. Only the amount of fees ratified by the CoC will be considered as the Insolvency Resolution Process Cost (**IRPC**).
- ii) Submission dated 22nd March, 2018:
- a) The legislature has not limited the fee payable to an IRP / RP.
 - b) Her responsibilities as IRP / RP would require adequate amount of help of professional personnel as part of her team. The fees and remuneration for the services provided by her team shall be borne from her fees.
 - c) If need be, she has to put top notch professionals at several locations and costs on this account is included in her fee.
 - d) Professionals hired for specialised and critical operations shall be paid by the corporate debtor as part of CIRP. Routine staff, assistants and supervisors appointed for the purpose of monitoring within the scope of her duties shall be paid by her from her fees.
 - e) She has quoted a total fee 13.75 crore, which is less than what a liquidator would charge under the Code. If the total assets of the corporate debtor of Rs.6,861 crore were to be handled by a liquidator, the average fee of liquidator for six months comes to Rs.19.89 crore.
 - f) The term sheet clearly mentions that the fee quoted is subject to approval of the incoming CoC and to the extent approved by them.
- iii) Oral submission on 19th April, 2018
- a) The fees for engaging professionals listed in the term sheet such as forensic auditors, consultants, advisors, advocates/solicitors would be charged as per actuals as per the term sheet. However, other professionals engaged by her would be paid from her fee.
 - b) The size of operations of the corporate debtor is huge; it has many subsidiaries and associate companies; and it is also a listed company. Accordingly, the job requires huge effort on the part of IRP / RP justifying the amount of fee.
 - c) The Hon'ble Adjudicating Authority has merely made an observation in its order dated 22nd November, 2017 and the same cannot be regarded as a conclusive finding.
- iv) Submission dated 21st April, 2018
- a) The annual turnover of the corporate debtor is Rs.693 crore and it has assets of Rs.2,761 crore. It has several projects and several subsidiaries. She has to run the corporate debtor as a going concern and preserve and enhance its value. Her fee includes the cost to be incurred in running the business of the corporate debtor as a going concern: (a) salary of manpower, including CEO, CFO, 75 supervisors and 15 engineers, to be deployed by her, (b) fee for CA / CS professional firms, (c) fee for services of professional firms, (d) fee for CA / professional representative for representation, (e) fee for lawyers, (f) fee for professionals, (g) fee for project valuers, (h) cost of raising interim finance, (i) cost of public announcement, (j) cost of holding CoC meetings, etc.
 - b) The fee agreed in the term sheet cannot be questioned as unreasonable as the same is not defined under the Code.
 - c) Though section 19 allows the IRP / RP to make an application to the Hon'ble Adjudicating Authority seeking cooperation of personnel of corporate debtor, she

has “witnessed the matters not coming up for hearing even after months of filing of the applications”.

3.2 As regards the attempt to pre-empt the CoC of its legitimate rights to appoint an IP of its choice as RP and fix his remuneration, Ms. Ruia, in her submissions dated 22nd March, 2018, has submitted that it is difficult to plan the activities for a single month only. She planned for a period of 6 or 9 months of CIRP to proceed with the case. She has further stated that this charge is hypothetical.

3.3 Ms. Ruia has essentially made the following submissions in her defence:

- a) The fee contracted is not final. It is subject to the ratification by the CoC and only the amount ratified will form part of the IRPC.
- b) Her professional fee is high because it includes the cost of running the corporate debtor as a going concern and running the CIRP. She cannot be sure of cooperation of employees who are loyal to existing management. Further, applications seeking cooperation are not disposed of for months. Hence, she needs to deploy additional staff and professionals.
- c) The law does not limit the fee of an IP. Nor does it define what is ‘reasonable’ fee. She has charged a fee comparable to that of a liquidator.
- d) It is not a finding of the Hon’ble Adjudicating Authority that the fee is exorbitant.
- e) She planned for a period of 6 or 9 months of CIRP to proceed with the case. The charge that she pre-empted CoC of its legitimate right to appoint a RP is hypothetical.

4. Analysis and Findings

The DC has carefully considered the SCN, written and oral submissions of Ms. Ruia and other material available on record. It examines the submissions seriatim, as summarised in Para 3.3, as under:

- a) It is an undisputed fact that Ms. Ruia contracted a professional fee of Rs.13.75 crore comprising IRP fee of Rs.5 crore for the first one month and RP fee @ Rs.1.75 crore for five subsequent months. It is also an undisputed fact, as per the term sheet and also the provisions of regulation 33 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, that the amount of fee ratified by the CoC shall be considered as the IRPC. It obviously means the amount of fee not ratified by CoC would not form part of IRPC. This does not alter the amount of professional fee payable to Ms. Ruia as IRP / RP.
- b) Ms. Ruia has submitted that the fee includes the cost of running the corporate debtor as a going concern and running the CIRP. This is not tenable in view of the following:
 - i) To justify the amount of fee, Ms. Ruia has provided some details of the size of the corporate debtor. As claimed by her, the corporate debtor has an annual turnover of Rs.694 crore / average monthly turnover of Rs. 58 crore. She claims that her fee includes the cost of running the corporate debtor as a going concern. It is difficult to believe that the total cost of running a corporate debtor having a monthly turnover of about Rs.58 crore, including the cost of the CIRP, is only Rs.5 crore for the first month of the CIRP and only Rs.1.75 crore for subsequent months.
 - ii) The term sheet clearly states what is included in her fee and what is not included. According to the term sheet, her fee as IRP / RP is exclusive of (a) professional fee for Valuers, Advocates, Solicitors, Forensic Auditors, Consultants and Advisers, (b) fee for representation before the NCLT, (c) expenses on public announcement and (d) all out of pocket expenses. However, according to her submission dated 21st April, 2018, her fee as IRP / RP includes (a) salary of manpower, including CEO,

CFO, 75 supervisors and 15 engineers, to be deployed by her, (b) fee for CA / CS professional firms, (c) fee for services of professional firms, (d) fee for CA / professional representative for representation, (e) fee for lawyers, (f) fee for professionals, (g) fee for project valuers, (h) cost of raising interim finance, (i) cost of public announcement, (j) cost of holding CoC meetings, etc. How can one believe that both the term sheet and her submission dated 21st April, 2018 are simultaneously true? According to the term sheet, her fee does not include the cost of public announcement, while her submission states that her fee includes the cost of public announcement. According to the term sheet, her fee as IRP / RP is exclusive of (a) professional fee for Valuers, Advocates, Solicitors, Forensic Auditors, Consultants and Advisers, and (b) fee for representation before the NCLT. However, according to her submission dated 21st April, 2018, her fee as IRP / RP includes (a) fee for CA / CS professional firms, (b) fee for services of professional firms, (c) fee for CA / professional representative for representation before various tax authorities, (d) fee for lawyers, (e) fee for professionals, (f) fee for project valuers, etc.

- iii) Vide her submission dated 22nd March, 2018, Ms. Ruia has stated that professionals hired for specialised and critical operations shall be paid by the corporate debtor as part of CIRP. Routine staff, assistants and supervisors appointed for the purpose of monitoring within the scope of her duties shall be paid by her from her fees. This is inconsistent with her submission dated 21st April, 2018 where she claims that her fee as IRP / RP includes (a) fee for CA / CS professional firms, (b) fee for services of professional firms, (c) fee for CA / professional representative for representation, (d) fee for lawyers, (e) fee for professionals, (f) fee for project valuers, etc.
- iv) An IRP/RP exercises the powers of the Board of Directors. He is not expected to replace or replicate the entire set of human resources of the corporate debtor. It is difficult to appreciate that she would recruit additional manpower, including CEO, CFO, 75 supervisors and 15 engineers for running the corporate debtor. This would drain the resources of an ailing corporate debtor further and thereby frustrate the CIRP. If a corporate debtor does not have some critical human resources, such resources can be hired for the corporate debtor, not in the team of the IRP / RP. It is further difficult to appreciate that she can recruit hundreds of qualified engineers instantaneously who would join her team only for 30 days of CIRP.
- v) Ms. Ruia has claimed that 'if need be', she shall engage top notch professionals for various locations. As per the term sheet, her fee does not include the payments for such top-notch professionals. Therefore, engagement of top-notch professionals does not inflate her fee in any manner. Further, it is not difficult to believe that she was not sure of the number of top-notch professionals need to be engaged, but she was sure of the amount of payments to be made to them and hence included such payments in her fee.
- vi) An IRP / RP is obliged to ensure that IRPC is not unreasonable. Deployment of a CEO, CFO, 75 supervisors and 15 engineers on the pretext that she cannot be sure of cooperation of employees who are loyal to existing management is only an additional financial burden on a sinking corporate debtor. This reflects failure to preserve the value of the property of the corporate debtor under section 20 of the Code and to keep the IRPC reasonable under clause 27 of the Code of Conduct.
- vii) Ms. Ruia has justified additional manpower on the assumption that the employees of the corporate debtor may not cooperate. Though sections 17(1)(c) and 19(1) of the Code mandate all officers, managers and personnel of the corporate debtor to report to the IRP/RP and extend all co-operation, the Code envisages a situation

where the personnel of the corporate debtor may refuse to cooperate. Section 19(3) of the Code empowers the IRP /RP to make an application to the Hon'ble Adjudicating Authority to ensure cooperation. The Code nowhere expects the IRP / RP to replace the CEO, and CFO and engage hundreds of supervisors/ engineers just because she believes that the employees are loyal to the existing management and that they will not co-operate with her and the Hon'ble Adjudicating Authority does not hear the matter for months. She cannot take law into her own hands.

- c) Ms. Ruia has very emphatically claimed that the legislature has not limited the fee payable to an IRP / RP. It is difficult to appreciate that any amount of fee can be charged by a professional just because the law does not limit it. The law [Clause 25 of the Code of Conduct for Insolvency Professionals under the First Schedule to the IBBI (Insolvency Professionals) Regulations, 2016] clearly specifies 'remuneration to be charged as a reasonable reflection of the work necessarily and properly undertaken' by an IP. It is neither feasible nor desirable to define what is 'reasonable'. At least an IP, who exercises the powers of the Board of Directors, cannot feign inability that she does not understand what is 'reasonable' in the circumstances. There are several ways to look at reasonableness. One way, as rightly observed by the Hon'ble Adjudicating Authority, is comparison with the compensation payable to the MD & CEO. However, Ms. Ruia does not find that comparison appropriate on grounds that the MD & CEO gets some perquisites and role of IRP is different. The law requires an IRP to run the corporate debtor as a going concern, which is also the responsibility of the MD & CEO. Though the responsibilities of an IRP and those of a MD & CEO overlap to a large extent, the role of IRP is different from that of the MD & CEO. The question is: Is the difference is so much to justify an IRP fee of Rs.5 crore, which is 100 times of the compensation of the MD & CEO of the same corporate debtor? Another way would be to compare with the fee charged by another IP in case of a similar CIRP. Yet another way would be to look at the fee earned by herself in a similar CIRP. One can even look at the opportunity cost (value from next best alternative) of Ms. Ruia. Unfortunately, she compares with an incomparable, the fee of a liquidator, and she states that the Code prescribes fee for the liquidator. The legal position, however, is that the fee of a liquidator is fixed by the CoC. Only in rare cases, where it has not been done, the regulations have linked it to performance. Further, while computing fee payable to a liquidator, Ms. Ruia uses incorrect figures and assumptions. While she claims that the corporate debtor has total assets of Rs.2,761 crore, she uses an asset base of Rs. 6,861 crore for computation of fee of the liquidator. Further, while the fee of a liquidator is linked to performance, that is, realised value, Ms. Ruia uses book value of assets of the distressed corporate debtor, for computation of fee of a liquidator. If realisable value of the actual assets of the corporate debtor is considered, the fee of a liquidator would be a fraction of what has been claimed by Ms. Ruia. This is beside the fact that the role of a liquidator is quite different from that of an IRP / RP.
- d) Ms. Ruia has submitted that the Hon'ble Adjudicating Authority has merely made an observation in its order and that it is not a conclusive finding. It is felt that irrespective of semantics whether it is an observation or finding, it is important to note what the Hon'ble Adjudicating Authority has stated: "*.. the Adjudicating Authority is of the considered view that remuneration quoted by the IRP is quite exorbitant.*" A considered view of the Hon'ble Adjudicating Authority indicates due application of mind and the same cannot be disregarded or brushed aside.
- e) Ms. Ruia, as an IP, knows well that a RP is appointed only by the CoC. Yet she contracted with the operational creditor, who is not legally competent to appoint RP, to the effect that she would work as RP and she would work for a professional fee of

Rs.1.75 crore per month. This is an attempt to lock in her appointment as RP before the competent authority, that is, CoC is born and denude the competent authority of its rights to choose an IP as IRP and fix his fees. This is evident from her submission that she planned for a period of 6 or 9 months of CIRP to proceed with the case. Ms. Ruia has further submitted that it is only hypothetical as she has not acted as RP. This submission does not help much. It only says that she was prevented by the Hon'ble Adjudicating Authority from acting as RP.

5. Conclusion

5.1 An IP, as IRP / RP, exercises the powers of Board of Directors of a corporate debtor undergoing CIRP. He manages the affairs of the corporate debtor as a going concern. He is the custodian of the property of the corporate debtor and protects and preserves the value of such property. He conducts the entire CIRP and manages the operations of the corporate debtor during the CIRP period. His responsibilities during CIRP are detailed in the Code and relevant regulations. He has similar onerous responsibilities in liquidation of corporate debtors, and individual insolvencies and bankruptcies. These responsibilities require highest level of standing, calibre and integrity which inspire confidence and trust of the society and the stakeholders. In sync with the role of IPs under the Code, the regulations provide for their capability and conduct and requires an individual to be a fit and proper person for continuation of his registration as an IP.

5.2 In this background, the DC finds that the conduct of Ms. Ruia is unacceptable as explained hereunder:

- i) The fee (Rs.13.75 crore comprising IRP fee of Rs.5 crore for the first one month and RP fee @ Rs.1.75 crore for five subsequent months) contracted by Ms. Ruia is exorbitant and not reasonable reflection of work to be done by her. It is unreasonable by any standard - in relation to the compensation of the MD & CEO of the same corporate debtor, fee of an IP for a similar CIRP, fee earned by Ms. Ruia as IRP / RP in a similar CIRP, opportunity cost of time of Ms. Ruia, fee payable to a liquidator of a similar corporate debtor, outstanding debt of Rs.4.16 crore of the corporate debtor, etc. One does not join the profession of IP to mint money from a distressed corporate debtor at any cost. If the market has to bear such inexplicable costs for a CIRP, it may look for other less costly options for resolution, defeating the very purpose of the Code. The DC finds that Ms. Ruia has violated the provisions of clauses 10, 24, 25 and 27 of the Code of Conduct for Insolvency Professionals under the First Schedule of the Regulations and section 20 of the Code.
- ii) Ms. Ruia has demonstrated her inadequate understanding of the law to the effect that (a) the Code prescribes the fee of a liquidator; (b) the fee of a liquidator is linked to book value of assets, (c) the operational creditor appoints RP for CIRP and fixes his fee; (d) an IRP / RP meets the expenses of running the corporate debtor as a going concern from his professional fee; (e) an IRP / RP meets the expenses of CIRP from his professional fee; (f) an IRP / RP needs to deploy additional staff as the existing personnel of the corporate debtor do not cooperate and the Hon'ble Adjudicating Authority does not hear matters for months, (g) an IRP / RP engages hundreds of personnel to run a corporate debtor; etc. This poorly reflects on her competence as IP and lack of understanding of the Code and the Rules and Regulations made thereunder. It is doubtful if she can be entrusted with a CIRP given her level of knowledge and understanding. The DC finds that Ms. Ruia has

- violated the provisions of clause 10 of the Code of Conduct for Insolvency Professionals under the First Schedule of the Regulations.
- iii) She has attempted to mislead the stakeholders, the Board and the DC by a series of misrepresentation of facts. A few examples are:
- a) She misled an operational creditor to sign term sheet engaging her as RP and fixing her fees even before commencement of the CIRP.
 - b) According to the term sheet, her fee does not include the cost of public announcement. She has now misrepresented that her fee includes the cost of public announcement.
 - c) According to the term sheet, her fee as IRP / RP is exclusive of (a) professional fee for Valuers, Advocates, Solicitors, Forensic Auditors, Consultants and Advisers, and (b) fee for representation before the Hon'ble NCLT. She has now misrepresented that her fee as IRP / RP includes (a) fee for CA / CS professional firms, (b) fee for services of professional firms, (c) fee for CA / professional representative for representation before various tax authorities, (d) fee for lawyers, (e) fee for professionals, (f) fee for project valuers, etc.
 - d) She has misrepresented that she would meet all running expenses of the corporate debtor and all cost of running the IRP from her fees.
 - e) Vide her submission dated 22nd March, 2018, Ms. Ruia stated that professionals hired for specialised and critical operations shall be paid by the corporate debtor as part of CIRP and routine staff, assistants and supervisors appointed for the purpose of monitoring within the scope of her duties shall be paid by her from her fees. Vide her submission dated 21st April, 2018, she has misrepresented that her fee as IRP / RP includes (a) fee for CA / CS professional firms, (b) fee for services of professional firms, (c) fee for CA / professional representative for representation, (d) fee for lawyers, (e) fee for professionals, (f) fee for project valuers, etc.
 - f) She computed the fee of a liquidator based on total assets of Rs.6,861 crore while total assets of the corporate debtor is only Rs.2,761 crore. She computed fee of a liquidator based on book value while the law required it to be computed on realised value.
 - g) Ms. Ruia misrepresented the facts and situations and has not been honest and straightforward in her professional dealings. She has damaged the reputation of a fledging profession beyond repair. Her conduct does not inspire confidence and trust of the stakeholders. The DC finds that she has violated the provisions of clauses 1, 2, 10, 12 and 24 of the Code of Conduct for Insolvency Professionals under the First Schedule of the Regulations.
- iv) Ms. Ruia has admitted that she planned for 6 or 9 months of CIRP. The term sheet provides for professional fee of Ms. Ruia as RP. She took away the rights of the CoC to appoint an IP of its choice as RP and fix his fees. By misguiding an operational to sign a term sheet, she compromised her independence and attempted to jeopardise the interests of the CoC. The DC finds that Ms. Ruia has violated the provisions of clauses 1, 2, 5, 10, 12, 24 of and 27 the Code of Conduct for Insolvency Professionals under the First Schedule of the Regulations.

5.3 Ms. Ruia has engaged in acts that have brought disrepute to the noble profession of IP and severely compromised her status as a fit and proper person. The overall conduct of Ms. Ruia, as detailed above, is not unbecoming of an IP. The DC concludes that Ms. Ruia has contravened the provisions of clauses 1, 2, 5, 10, 12, 24, 25 and 27 of the Code of Conduct for Insolvency Professionals under the Insolvency and Bankruptcy Board of India (Insolvency

Professionals) Regulations, 2016 read with regulation 7(2)(b) of the said Regulations and section 20 of the Code.

6. Order

6.1 Ms. Ruia has repeatedly misled the stakeholders, the Board and the DC. She has compromised her status as a fit and proper person and damaged the reputation of the profession. Her conduct, which is violation of various provisions of the law, as explained above, cannot be ignored. The DC, however, notes that Ms. Ruia is new to the insolvency profession and she has stated that till date she has not undertaken any process under the Code.

6.2 Section 220(2) and (3) of the Code read with regulation 11(8) of the Regulations empower the DC to impose penalty as specified in sub-section (3) of section 220 or suspend or cancel the registration of the IP. Further, where any IP has contravened any provision of the Code or rules or regulations made thereunder, the DC may impose a penalty which shall be (i) three times the amount of the loss caused, or likely to have been caused, to persons concerned on account of such contravention; or (ii) three times the amount of the unlawful gain made on account of such contravention, whichever is higher and that where such loss or unlawful gain is not quantifiable, the total amount of the penalty imposed shall not exceed more than one crore rupees. In the instant case, the Hon'ble Adjudicating Authority prevented Ms. Ruia from causing loss to others or making unlawful gain.

6.3 Accordingly, the Disciplinary Committee, in exercise of powers conferred under section 220 (2) of the Code read with sub-regulation (8) of regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016, hereby suspends the registration of Ms. Bhavna Sanjay Ruia, Insolvency Professional [Registration No. IBBI/IPA-002/IP-N00371/2017-2018/11065] for a period of one year. It sincerely expects that Ms. Ruia will use this one year to strengthen her competency and ethical standards.

6.4 This Order shall come into force on expiry of 30 days from the date of issue of this order.

6.5 A copy of this order shall be forwarded to the ICSI Institute of Insolvency Professionals where Ms. Ruia is enrolled as a professional member.

-Sd-

(Dr. M. S. Sahoo)
Chairperson, IBBI

-Sd-

(Dr. Mukulita Vijayawargiya)
Whole Time Member, IBBI

Dated: 3rd May, 2018

Place: New Delhi