INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Disciplinary Committee)

No. IBBI/DC/327/2026 16 June 2026

ORDER

This Order disposes of the Show Cause Notice (SCN) No. COMP/11011/50/2025-IBBI-1916/318 dated 30.03.2026, issued to Mr. Sanjay Gupta, who is an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with Registration No. IBBI/IPA-001/IP-00117/2017-18/10252 and a Professional Member of the The Indian Institute of Insolvency Professional of ICAI (IIIPI).

1. Background

1.1. The corporate insolvency resolution process (CIRP) of M/s Unnati fortune Holdings Limited (CD) commenced *vide* order of the National Company Law Tribunal, New Delhi Bench (AA) dated 27.03.2019 and Mr. Sanjay Gupta was appointed as Interim Resolution Professional (IRP) in the matter and later confirmed as the Resolution Professional (RP) in the matter.

1.2. The Board received several complaints against Mr. Sanjay Gupta with regard to his assignment as IRP and RP in the matter. On the said complaints, reply was sought from Mr. Sanjay Gupta. The Board examined the allegations in the above complaint *vis-à-vis* reply of Mr. Sanjay Gupta and based on such examination; the Board formed a *prima facie* opinion that Mr. Sanjay Gupta had contravened provisions of the Code and Regulations made thereunder and issued SCN to Mr. Sanjay Gupta on 30.03.2026. Mr. Sanjay Gupta submitted his reply to the SCN on 14.04.2026.

1.3. The SCN and its response by Mr. Sanjay Gupta were referred to the Disciplinary Committee (DC) for disposal. Mr. Sanjay Gupta availed the opportunity of personal hearing before the DC through virtual mode on 26.05.2026. The DC has considered the SCN, the reply to SCN, oral and written submissions of Mr. Sanjay Gupta, and proceeds to dispose of the SCN.

2. Alleged Contravention, submissions of Mr. Sanjay Gupta and findings of the DC.

<u>**Contravention-I**</u>

2.1. **Failure to verify and revise the claim of M/s Nupur Finvest Pvt. Ltd.**

2.1.1 Section 25(2)(e) of the Code provides that the RP shall maintain an updated list of claims. Further, Regulation 14(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations), *inter alia,* provides that the IRP or RP, as

the case may be, shall revise the amounts of claims admitted, as soon as may be practicable, when he comes across additional information warranting such revision.

2.1.2 In the present matter, M/s Nupur Finvest Pvt. Ltd. submitted a claim dated 20.02.2020 for Rs.19.56 crore, which includes loans advanced directly to the CD as well as loans extended to four group companies of the CD, namely
(i) Fortune Infraheight Pvt. Ltd.,
(ii) IVR Prime IT SEZ Pvt. Ltd.,
(iii) Unnati Fortune Hotmart Pvt. Ltd., and
(iv) Unnati Fortune Industries Pvt. Ltd.

2.1.3 In the said four companies, the CD had stood as a corporate guarantor. The available records further indicate that insolvency proceedings were initiated against the aforesaid four companies and the following recoveries were realized by the creditor through approved resolution plans:

(i) In the CIRP of Unnati Fortune Industries Pvt. Ltd., a resolution plan was approved on 01.07.2020 providing for payment of the entire admitted claim of Rs.3.15 crore to M/s Nupur Finvest Pvt. Ltd.

(ii) In the CIRP of Unnati Fortune Hotmart Pvt. Ltd., a resolution plan was approved on 20.05.2021 providing payment of Rs.3.00 crore against an admitted claim of Rs.3.11 crore.

Accordingly, M/s Nupur Finvest Pvt. Ltd. had already realised an aggregate amount of Rs.6.15 crore in respect of the same underlying debt exposure through the CIRPs of the principal borrowers.

2.1.4 The minutes of 11th meeting of the CoC held on 24.08.2021 record that the revised claim received from M/s Nupur Finvest Pvt. Ltd. after reducing the realised amount in CIRP of Unnati Fortune Industries Pvt. Ltd. The minutes of the 25th meeting of the CoC held on 01.05.2025 record the approved resolution plan in the matter of Unnati Fortune Hotmart Pvt. Ltd. However, no corresponding reduction in the claim amount of M/s Nupur Finvest Pvt. Ltd. on account of recovery in the CIRP of Unnati Fortune Hotmart Pvt. Ltd. reflected in the admitted claim.

2.1.5 Regulation 14(2) of the CIRP Regulations requires the RP to revise the amounts of claims admitted when additional information warranting such revision becomes available. In the present case, information regarding recovery made by the creditor in the CIRP of Unnati Fortune Hotmart Pvt. Ltd. was available, as evident from the minutes of 25th CoC meeting. Despite this, Mr. Sanjay Gupta continued with the admitted claim of M/s Nupur Finvest Pvt. Ltd. for Rs.16.63 crore, without undertaking any adjustment to account for such recovery. Consequently, the admitted claim did not reflect the true outstanding liability of

the CD and effectively allowed duplication of the same debt exposure across multiple insolvency proceedings. The role of the RP in claim verification is not merely mechanical acceptance of claims submitted by creditors but requires independent application of mind and due diligence to ensure that only the actual outstanding liability is admitted. By admitting the claim in full without adjusting the amounts already realised by the creditor, Mr. Sanjay Gupta allowed the claim to remain inflated. Conduct of Mr. Sanjay Gupta, therefore, demonstrated lack of reasonable care and diligence in discharge of his duties. Further, such non-revision of claim has a direct bearing on the entitlement of M/s Nupur Finvest Pvt. Ltd. under the resolution plan.

2.1.6 In view of the above, the Board held *prima facie* view that Mr. Sanjay Gupta had contravened Section 25(2)(e) of the Code, Regulation 14(2) of CIRP Regulations, read with Clause 14 of the Code of Conduct specified in IP Regulations.

2.2. **Submissions by Mr. Sanjay Gupta.**

2.2.1 Mr. Sanjay Gupta submitted that the claim of M/s Nupur Finvest Pvt. Ltd. was initially submitted on 08.04.2019 for an amount of Rs. 9,13,61,058/- which was duly verified and admitted by the RP based on the documents available at that stage. The said claim was considered in the 1st CoC meeting held on 10.10.2019 with a voting share of 1.05%. Subsequently, the creditor submitted a revised claim dated 20.02.2020 for Rs. 19,56,54,152/- along with supporting documents evidencing corporate guarantees extended by the CD in respect of loans granted to its group entities. Upon due verification, the RP revised and admitted the claim at Rs. 19,56,54,152/- which was placed before the CoC in its 8th meeting held on 12.08.2020, and the corresponding revised voting share was recorded as 1.75% in the COC.

2.2.2 Thereafter, *vide* email dated 26.09.2020, the creditor informed the RP that the claim relating to Unnati Fortune Industries Pvt. Ltd. had been settled and accordingly submitted a revised claim of Rs. 16,63,08,522/-. The RP duly took note of the same and updated the admitted claim accordingly, which was placed before the CoC in the 9th CoC meeting dated 03.03.2021, with a revised voting share of 1.45% and thereafter the voting continued on revised claim of Rs 16,63,08,522/-.

2.2.3 He submitted that the admission of the claim of M/s Nupur Finvest Pvt. Ltd. was undertaken strictly in accordance with the specific terms and conditions contained in the underlying loan agreements executed between the parties. As per the said agreements, the financial facilities extended carried an agreed rate of interest at 17.50% per annum, or such modified rates as indicated by the Company. In addition to the said interest, the interest tax, service tax or any other tax or levy imposed and/or imposable by the Government and other authorities from time to time was also be payable by the borrower. The clause under the agreement was reiterated as under:-

"The said loan shall carry interest at the flat rate of 17.50 % per annum or such modified rates as indicated by the Company. In addition to the said interest, the interest tax, service tax or any other tax or levy imposed and/or imposable by the Government and other authorities from time to time shall also be payable by the borrower."

2.2.4 Further, the loan agreements expressly provided that in case of non-payment or delay in servicing of the debt, the lender shall be entitled to levy penal charges/ late payment charges at the rate of 3% per month compounded monthly shall be charged or at such higher rate as the Company may specify from time to time, on the defaulted amount from the dates of default till the date of payment of the defaulted amount, which are contractually agreed and form an integral part of the financial debt. The relevant clause of the agreement, *inter alia*, stipulates:

"Without prejudice to the other rights of the Company, if the Borrower defaults in making payments to the Company on due dates, the late fee at the rate of 3% Per Month compounded monthly shall be charged or at such higher rate as the Company may specify from time to time, on the defaulted amount from the dates of default till the date of payment of the defaulted amount."

2.2.5 He submitted that certain groups of homebuyers had, from time to time, raised concerns and queries before the RP regarding the quantum of interest and penal/late payment charges included in the claim submitted by M/s Nupur Finvest Pvt. Ltd., alleging the same to be in the nature of an extortionate transaction. The RP had taken note of such concerns in various CoC meetings and examined the claim strictly in accordance with the underlying contractual documents and the applicable provisions of the Code.

2.2.6 Further, Nupur Finvest Pvt. Ltd is the NBFC in the business of providing financial services, and the same are governed by duly executed loan agreements in compliance with applicable laws. In this regard, reliance was placed on the Explanation to Section 50 of the Code, which expressly clarifies that any debt extended by a person providing financial services, in compliance with the law for the time being in force, shall not be treated as an extortionate credit transaction. Accordingly, the interest rate of 17.50% per annum and the penal/late payment charges at the rate of 3% per month (compounded monthly), being contractually agreed and forming part of a legally enforceable financial arrangement, cannot be termed as excessive or unconscionable. The RP, therefore, rightly admitted the claim as per the contractual terms without making any alteration, in compliance with the provisions of the Code.

2.2.7 Accordingly, the RP admitted the claim amount inclusive of such interest and charges, as the same was squarely within the definition of "financial debt" under the Code, and no

deviation or discretionary alteration was made by the RP from the agreed contractual framework.

2.2.8 It was further submitted that the detailed summary of the claim computation, including the break-up of principal, interest, penal charges, and other components, was duly prepared and formed part of the record. The said summary was also placed before and shared with the CoC members along with the minutes of the 28th CoC Meeting held on 11.08.2025 and the 32nd CoC Meeting held on 16.12.2025, ensuring complete transparency and disclosure to all stakeholders.

2.2.9 The RP had consistently apprised the CoC members regarding the claim of M/s Nupur Finvest Pvt. Ltd. in subsequent meetings as well, including the 31st CoC meeting held on 11.11.2025, 33rd CoC meeting held on 15.01.2026, 34th CoC meeting held on 19.02.2026, and 35th CoC meeting held on 20.03.2026, thereby maintained continuous disclosure, transparency, and keeping the CoC duly informed at all material stages.

Treatment in Resolution Plan and Absence of Duplication

2.2.10 Mr. Sanjay Gupta submitted that the Resolution Plan submitted by the Successful Resolution Applicant (SRA) on 31.07.2020 was considered in the 8th CoC meeting held on 12.08.2020 based on the then admitted claim of Rs. 19,56,54,152, with a voting share of 1.75% as this was the amount claimed on record. However, the voting process on the Resolution Plan was stayed by the AA *vide* order dated 17.08.2020 pursuant to an application filed by ICICI Bank challenging the treatment of certain stakeholders, including M/s Nupur Finvest Pvt. Ltd. The stay remained in force until it was lifted by the AA *vide* order dated 11.08.2021. Thereafter the Resolution for approval of Resolution Plan was passed in the 12th CoC meeting dated 15.09.2021 by way of E-voting in favour of M/s Vasu Buildtech by 97.32% voting. The application for approval of the Resolution plan was submitted before the AA in September 2021 which was still pending for approval. During the intervening period, the creditor itself revised its claim to Rs. 16,63,08,522/- on 26.09.2020 which was duly considered by the RP and placed before the CoC in the 9th CoC meeting dated 03.03.2021. When the Resolution Plan was again put to vote in the 12th CoC meeting dated 15.09.2021 post lifting of the stay, the voting share of M/s Nupur Finvest Pvt. Ltd. was correctly considered at 1.45%, based on the revised admitted claim dated 26.09.2020 for Rs. 16,63,08,522/-.

Treatment of Nupur Finvest under the Resolution Plan

2.2.11 He further submitted that the Resolution Plan explicitly mentioned the nature and composition of the claim of M/s Nupur Finvest Pvt. Ltd. and recognized that the claim comprised corporate guarantees given by the CD for its four subsidiary/group entities. The Resolution Plan (which was passed in the 12th COC meeting dated 15.09.2021) took into

account and clearly mentions that parallel CIRP Proceedings were ongoing in respect of such 4 group entities (out of total 5) and also categorically provided that the claims pertaining to Unnati Fortune Industries Pvt. Ltd. and Unnati Fortune Hotmart Pvt. Ltd. stood settled in their respective CIRPs and, therefore, the amounts recovered therein were duly excluded from the claim being considered in the present CIRP. Further, the plan expressly stipulated that any additional recoveries, if any, from other group entities would also be deducted from the payable amount. On this basis, the SRA proposed a net payment of Rs. 7,94,30,199/- to M/s Nupur Finvest Pvt. Ltd. against its remaining outstanding claim of other three entities (other than Unnati Fortune Industries Pvt. Ltd. and Unnati Fortune Hotmart Pvt. Ltd.). Thus, the Resolution Professional ensured that there was no duplication or double counting of the same debt exposure across multiple insolvency proceedings. Therefore, the allegation of duplication of claim was unfounded. He exercised due diligence and ensured that all recoveries were duly accounted for, thereby maintaining accuracy and fairness in the insolvency resolution process.

Alleged Non-Reduction on Account of Hotmart Recovery

2.2.12 He submitted that the minutes of 25th CoC meeting held on 01.05.2025 recorded that Resolution Plan of Unnati Fortune Hotmart Pvt. Ltd was already approved on 20.05.2021. The said fact was already factored in the resolution plan which was approved by the CoC members in September 2021 but the reduction could not be done as the creditor had not submitted any revised claim. He further submitted that Nupur Finvest Pvt. Ltd., *vide* its email dated 04.09.2021, had raised objections to the contents of the Resolution Plan and, *inter alia*, stated that Unnati Fortune Hotmart Pvt. Ltd. was undergoing CIRP, and that its Resolution Plan had been approved and was under implementation. The RP was only in receipt of information to the effect that the said plan had been approved and was stated to be under implementation. However, the RP had no independent knowledge or confirmation as to whether the said Resolution Plan had, in fact, been fully implemented or whether any distribution had been made thereunder to the concerned creditor, even as of late 2025. At the time of consideration and voting on the Resolution Plan in 2021, the understanding available on record was that the claims pertaining to Unnati Fortune Industries Pvt. Ltd. stood settled in the respective CIRP and the Unnati Fortune Hotmart Pvt. Ltd shall be settled upon the successful implementation of the approved resolution plan.

2.2.13 With respect to the alleged non-reduction of claim on account of recovery in the CIRP of Unnati Fortune Hotmart Pvt. Ltd., Mr. Sanjay Gupta submitted that the creditor informed the RP *vide* email dated 05.11.2025 regarding receipt of Rs. 3 crore in Unnati Fortune Hotmart Pvt. Ltd. However, the creditor did not submit any revised claim in Form C or supporting documents reflecting such recovery. In terms of the CIRP Regulations, the RP is required to verify and admit claims based on formal submissions supported by documentary evidence and cannot *suo motu* revise claims in the absence of a duly filed

revised claim. It is further submitted that as per Regulation 12A, it is the obligation of the creditor to update its claim as and when it is satisfied, partly or fully, from any source. In the present case, despite intimation by way of email, no revised claim was submitted by the creditor in compliance with the regulatory framework.

2.2.14 Mr. Sanjay Gupta submitted that the RP discharged his duties in compliance with Section 25(2)(e) of the Code. All revisions to the claim of M/s Nupur Finvest Pvt. Ltd. were undertaken promptly upon receipt of verified information and were duly placed before the CoC.

2.3. **Analysis and Findings of the DC**

2.3.1 The DC notes that the primary issue for consideration is whether Mr. Sanjay Gupta failed to revise the admitted claim of M/s Nupur Finvest Pvt. Ltd. to account for recoveries made by it in the CIRP of Unnati Fortune Hotmart Pvt. Ltd. (Hotmart)

2.3.2 The DC notes that the obligation under Regulation 14(2) is a continuing and independent statutory duty cast upon the RP. It is not contingent upon receipt of a formal revised claim from the creditor. Once the RP comes into possession of any factual information indicating that an underlying debt exposure has been satisfied or reduced whether partially or fully, the obligation to recalculate and amend the admitted claim list becomes absolute to ensure that the voting share within the CoC reflects the true financial liabilities of the CD. The creditor's obligation under Regulation 12A to update its claim and the RP's independent obligation under Regulation 14(2) operates concurrently. The use of the word "shall" in Regulation 14(2) leaves no room for discretion or delay. The RP is not bound to wait for creditor for filing of revised claim.

2.3.3 Mr. Sanjay Gupta submitted since no formal revised claim was submitted by the creditor pursuant to the Hotmart recovery, he could not *suo motu* revise the admitted claim. He also relied upon the email dated 05.11.2025 from the creditor informing him of receipt of Rs.3 crore in the Hotmart CIRP to show that the information became available to him only at that stage.

2.3.4 The DC observes that M/s Nupur Finvest Pvt. Ltd. filed a claim based on corporate guarantees executed by the CD for its group companies. While a creditor can file a claim based on a corporate guarantee, it cannot recover more than the total outstanding amount, and any recovery from one source must immediately reflect as a reduction in the claims admitted elsewhere. The records show that in the CIRP of Unnati Fortune Industries Pvt. Ltd., a recovery of 3.15 crore was realized via an approved resolution plan in the CD of Unnati Fortune Industries Pvt. Ltd, which the RP took note of by revising the claim downwards to 16.63 crore. In the CIRP of Unnati Fortune Hotmart Pvt. Ltd., a resolution plan was approved on 20.05.2021, providing a recovery of 3 crore to the creditor. The

knowledge of this approved resolution plan was noted in the minutes of the 25th meeting of the CoC held on 01.05.2025 and the plan was passed way back in 20.05.2021. Despite this, as per the latest list of creditors as on 19.02.2025 uploaded on the website of the Board, the claim of Nupur Finvest Private Limited still reflected as Rs.16,63,08,522/- and no updated list of creditors reflecting the revised claim of M/s Nupur Finvest Pvt. Ltd. on account of the Hotmart recovery was filed on the Board's website till date. The RP himself submitted that he received email intimation from the creditor on 05.11.2025 confirming the receipt of 3 crore but no step was taken for revision of claim.

2.3.5 The DC also notes that the obligation to maintain an updated list of claims is not merely procedural but goes to the integrity of the insolvency resolution process, as the list of creditors forms the basis for voting share computation, resolution plan entitlements, and transparent dissemination of information to all the stakeholders. In view of the foregoing, the DC holds the contravention.

<u>Contravention-II</u>

2.4. **Levy / enhancement of transfer charges and Cancellation of residential units during CIRP without approval of the Committee of Creditors.**

2.4.1 Section 28(1)(k) of the Code provides that the resolution professional, during the CIRP, shall not transfer rights or financial debts or operational debts under material contracts otherwise than in the ordinary course of business; without the prior approval of the CoC.

2.4.2 In the present matter, it was noted that certain transfer charges were levied by Mr. Sajay Gupta on homebuyers seeking transfer of their allotment rights to another buyer (subsequent allottee). In response, Mr. Sajay Gupta stated that the transfer charges were increased to ensure that the CIRP costs were adequately met. It was further noted that the levy of transfer charges resulted in the collection of an aggregate amount of Rs.3.55 crore, indicating a substantial financial burden on the homebuyers. The material available on record indicated that certain objections to the levy of such charges were raised by the homebuyers during the 26th meeting of the CoC held on 06.06.2025. However, despite such objections, no proposal was placed before the CoC seeking approval of the transfer charges. In response, Mr. Sajay Gupta relied upon Clause 11 of the Builder Buyer Agreement (BBA) to justify the levy of such charges, stating that the said clause permitted the company to levy and revise transfer charges without prior notice to the allottees. Mr. Sajay Gupta further submitted that the charges were imposed in continuation of the contractual framework governing the relationship between the CD and the allottees. Such levy formed part of the operational functioning of the real estate project during CIRP and therefore was within the ordinary course of business.

2.4.3 It was observed by the Board that while the BBA may contain provisions enabling the company to levy transfer charges, the commencement of CIRP fundamentally alters the

governance structure of the CD. The management of the affairs of the CD vests in the RP, who is required to conduct the CIRP subject to the oversight and approval of the CoC for specified actions. The levy and enhancement of transfer charges resulting in collection of more than Rs. 3.5 crore from homebuyers cannot be regarded as a routine operational activity but rather constitutes a decision having substantial financial implications for a specific class of stakeholders. In such circumstances, Mr. Sanjay Gupta was required to place the matter before the CoC for its consideration and approval. However, despite objections to such levy being recorded in the 26th meeting of CoC, no evidence was produced to demonstrate that the CoC was ever requested to approve or ratify the decision. It is further noted from the minutes of the 11th meeting of the CoC as under:

"RP has cancelled approx. 17 units (after giving 3 notices) who are not willing to pay their balance dues. These units shall be now offered to Phase 3 buyers and if they would not take these units, then these units would be put to sale in open market through e-auction.

…

CoC members took note of the same."

2.4.4 In response, Mr. Sajay Gupta stated that no cancellation of any residential or commercial unit was undertaken during the CIRP, and that any such cancellations reflected in the records pertain to a period prior to commencement of CIRP under the erstwhile management of the CD. However, the available records as mentioned above clearly indicate that 17 residential units were cancelled by Mr. Sajay Gupta during the CIRP on account of non-payment of balance dues by the concerned allottees. Therefore, response of Mr. Sajay Gupta denying any cancellation of residential units during the CIRP appeared to be inconsistent with the contemporaneous records of the CoC proceedings.

2.4.5 It is pertinent to note that the cancellation of allotments and the subsequent re-allocation or sale of residential units constitute a significant commercial decision, as it directly affects the contractual rights of homebuyers. Such action cannot be regarded as a routine operational activity during the CIRP and was required to be undertaken with transparency and prior approval of the CoC. However, records indicated that Mr. Sajay Gupta did not place any specific proposal before the CoC seeking approval for cancellation of the residential units, record did not indicated deliberation or voting by the CoC on the said decision.

2.4.6 In view of the above, the Board *prima facie* observed that conduct of Mr. Sajay Gupta reflected lack of due diligence and failure to adhere to the provisions of the Code, thereby contravening Section 28(1)(k) of the Code, read with Clauses 1, 2, 12 and 14 of the Code of Conduct specified in IP Regulations.

2.5. **Submissions by Mr. Sanjay Gupta.**

2.5.1 Mr. Sanjay Gupta submitted that the levy of transfer charges was not a new or unilateral imposition by him. Prior to commencement of the CIRP, the CD was already charging variable transfer charges from allottees seeking transfer/substitution of their allotment rights, in terms of Clause 11 of the BBA. The said clause expressly authorized the CD to permit transfer of allotment rights subject to payment of administrative/transfer charges, with the discretion to revise such charges. The RP, therefore, merely continued the existing contractual and business practice, which was standard in the real estate sector. The CoC consistently expressed the intention in 1st CoC Meeting held on 10.10.2019 & 2nd CoC Meeting held on 10.12.2019 to raise fund for construction and showed its intention to maintain the CD as a going concern. In furtherance of this objective, and in accordance with Regulation 31 of the CIRP Regulations, 2016, the RP had undertaken certain actions strictly to ensure the continuity of essential operations. There were some allottees who wanted to sell their allotment rights in the market. The buyer of the allotment rights and the original allottees approached the RP for substitution/transfer of his name in the list of Allottees. The transfer charges, where collected, were limited to instances where existing buyers exercised their rights to transfer their interest to any third parties. These charges were being taken by every Builder/ Real estate promoter. In this case also the CD in its BBA had the clause no. 11 which provided as under-:

"Transfer of Interest"
The Allottee shall not be entitled to transfer rights in the allotment and the said unit and/ or get the name of his/ her nominee (s) substituted in his/ her place without prior approval of the Company. The Company, in its sole discretion, may allow or refuse the same on such terms and conditions as it may deem fit and proper. In case of Allottee seeking transfer rights of the allotment, the Allottee shall be permitted to do so only on submission of appropriate letter of request for transfer in favour of the subsequent prospective Allottee/ person in whose favour the Allottee seeks transfer. The said Letter of request would be duly signed by all the concerned parties and would be accompanied by a no objection letter/ certificate from the concerned Employer/ Financial Institutions or Banks where the payment against the said booking was made by the Allottee by raising funds/ loans from any Employer / Financial Institutions/ Banks. The Allottee shall have to pay administrative/transfer charges to the Company as per Company policy for effecting such transfer or allotment. Company reserves the right to revise transfer charges at any time without giving any prior notice to the Allottee.

2.5.2 This clause authorized the Builder (RP in this case) to levy or revise the transfer charges. Generally, these charges are to be borne by the buyer of the property and not by the seller (allottee in this case). So, the burden of paying the transfer charges was not on the financial creditors (allottees). The RP informed that these charges were utilized to ensure that the CIRP costs were adequately met without burdening the stakeholders. All these charges were being received in the bank account of the CD and the funds such collected were being used for construction cost & other cost to keep the CD as going concern. The RP had taken this

decision during conduct of normal course of business, to keep the status of the CD as a going concern, although CoC / residents were all aware of this decision through the BBA executed by them, therefore, he did not take approval of the CoC as it was a normal business decision andCoC approval was not required as per the Regulation 31B of CIRP Regulations.

RP adopted existing policy of the CD for transfer charges

2.5.3 It was observed by the RP from the existing records of the CD that they had the existing policy of charging Rs. 100 & Rs. 200 per sq feet as transfer charges if any allottee wished to exercise his right to transfer his unit/interest. This practice was in accordance with the BBA executed between the allottees and the CD. The levy of such charges by the erstwhile management was as per the BBA executed between the CD and the Homebuyers and was exercised as part of the normal business operations of the CD to manage administrative costs associated with such transfers. The RP had placed before CoC in 26th CoC meeting held on 06.06.2025 about structure of transfer charges being levied and circulated excel chart containing the amount received as transfer charges to the CoC members with the minutes of the 26th COC Meeting.

2.5.4 He further submitted that Regulation 31B of the CIRP Regulations, 2016 mandated the RP to place before the CoC the operational status of the CD and to seek approval for all costs forming part of the Insolvency Resolution Process Costs (CIRP Costs). However, the transfer charges collected in the present case did not constitute a “cost” or “expense” requiring approval under Regulation 31B. On the contrary, such transfer charges represent revenue/income generated by the CD in the ordinary course of its business operations, in accordance with pre-existing contractual arrangements. Accordingly, the collection of transfer charges cannot be construed as an item of CIRP expenditure necessitating prior approval of the CoC under Regulation 31B, so it cannot be treated as the substantial burden on the homebuyers.

Reason of raising this issue in the several meetings

2.5.5 Mr. Sanjay Gupta submitted that certain groups of homebuyers have repeatedly raised objections regarding the levy of transfer charges, alleging that the RP is imposing an additional financial burden on them. However, such objections appeared to be motivated by individual commercial considerations, as these homebuyers intended to transfer their units at higher market value without factoring the contractually agreed transfer charges.

Cancellation of Units – CoC Approval and Position of Facts

2.5.6 He submitted that the allegation regarding unauthorized cancellation of units was entirely misconceived and contrary to the factual record. The allotment letter cum BBA itself carried

the clause of cancellation of the unit due to non-payment. The relevant Clause E(5) BBA agreement is reproduced below:-

"5. Time is the Essence The timely payment of the balance sale consideration by the Allottee as per the payment schedule herein agreed is the essence of the Letter of Allotment. It shall not be obligatory on the part of the Company to send Demand notices/reminders for the payments to be made by the Allottee as per Payment Schedule. If any instalment is delayed/ not paid as per the Payment Plan, the Company will charge interest@ 18% p.a. on the delayed payment for the period of delay, however, if it remains in arrear for more than 90 days, the allotment shall automatically stand cancelled without any further intimation to the Allottee, unless otherwise provided by the Company and the Allottee shall have no right or lien whatsoever on the Unit."

2.5.7 The issue of default by certain homebuyers in making construction-linked payments was deliberated in detail before the CoC. In this regard, during the 6th CoC Meeting held on 28.05.2020, a specific agenda was placed before the CoC highlighting the persistent non-payment of demanded amounts by several allottees despite repeated reminders through emails, telephonic follow-ups, and other communications.

2.5.8 The CoC was apprised that such non-payment was materially affecting the progress of construction activities and hindering the objective of keeping the CD as a going concern. After due deliberation, the CoC, in its commercial wisdom, approved a resolution with 93.45% voting share, authorizing the RP to take necessary steps (i.e. to cancel the units) against such defaulting homebuyers. Pursuant to the said approval, the RP was specifically authorized to grant a final opportunity of 7 days to the defaulting allottees to clear their dues, followed by issuance of a notice of 7 days in case of continued default. The resolution further empowered the RP to cancel the units of such allottees (who failed to comply with the notice period) and further authorized the RP to re-allot such units to prospective buyers, in consultation with the CoC. It was also clarified that such actions would be implemented after substantial relaxation of the COVID-19 lockdown restrictions.

2.5.9 He clarified that, though the cancellation would have been legal pursuant to the BBA agreement and authorization by the CoC, the RP did not actually cancel any units on compassionate grounds. The reference made during the 11th CoC Meeting held on 24.08.2021 regarding cancellation of 17 units was inadvertently depicted like this, but it was just the final notice to cancel the units but no units were cancelled despite having the said authorization. The current status of the 17 units which had been referred during 11th CoC are as follow:-

Sl	Unit	Name of Homebuyers	Balance dues as on 20-02-2021	Date of demand issued by RP	First Notice date	Second Notice date	Third and final Notice date	Current Ownership
1	UGF-10	Sharda Aggarwal	13,30,746	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Sharda Aggarwal
2	UGF-32	Sangeeta S Gautam	20,48,280	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Sangeeta S Gautam
3	UGF-33	Kapil Lakhwara	27,48,312	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Kapil Lakhwara
4	UGF-42	Aashish Pandit	12,41,846	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Aashish Pandit
5	UGF-44	Dimple Shekhar	27,61,746	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Dimple Shekhar
6	UGF-39	Kamlesh Sethi	23,66,150	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Kamlesh Sethi
7	T5-304	Rahul Pandey	24,28,974	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Rahul Pandey
8	FF-14	Mamta Praveen Kumar	22,51,720	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Mamta Praveen Kumar
9	T2-PF04	Mitul Shashi Kumar	42,99,177	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Mitul Shashi Kumar
10	T2-1104	Sushma Devinder Singh Kanwar	14,66,073	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Customer transferred unit to Anurag
11	T3-PF01	Zeeshan Haider Rizvi	18,94,547	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Zeeshan Haider Rizvi
12	T3-2407	Sudhir Kumar	58,17,725	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Sudhir Kumar
13	T4-1506	Satish Kumar	12,40,952	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Satish transferred unit to Mr. Saubhagya Gupta
14	T4-1801	Ravi Verma	72,20,000	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Ravi Verma
15	T5-12A02	Seeta Ram Gupta	73,73,680	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Seeta Ram Gupta

16	T2-2207	Sharabjeet	27,67,210	17-10-2020	11-02-2021	21-02-2021	23-03-2021	Customer endorsed to Mrs. Kavya Bhatt
17	T2-1505	S. Srijwalini	18,15,921	17-10-2020	11-02-2021	21-02-2021	23-03-2021	S. Srijwalini

2.5.10 He submitted that none of the above mentioned 17 homebuyers have filed any complain against the alleged cancellation.

No Prejudice to Stakeholders.

2.5.11 The transfer charges were not imposed upon the existing allottees/homebuyers, who constitute a significant class of financial creditors. The incidence of such charges was solely on the incoming/transferee purchasers who voluntarily sought substitution of allotment rights. Therefore, no additional financial burden was cast upon the existing stakeholders of the CD. Further, the collection of transfer charges was strictly in furtherance of maintaining the CD as a going concern. In a situation where the CIRP had been considerably prolonged due to pending litigation and where no interim funding or contribution towards CIRP costs was being made by the CoC, the RP was required to adopt practical and legally permissible measures to ensure continuity of operations. The limited revenue generated through transfer charges was utilized towards construction & other CIRP costs, thereby preventing disruption of the insolvency process. Such measures indirectly benefited all stakeholders, including homebuyers, by enabling continuation of construction activities, maintenance of the project, and preservation of asset value.

2.5.12 He submitted that with respect to the issue of cancellation of units, no units were actually cancelled by him. Therefore, no stakeholder suffered any adverse consequence on this account. Even otherwise, the authority to initiate such action was derived from an express resolution passed by the CoC with 93.45% voting share, thereby reflecting the collective commercial wisdom of the creditors. Additionally, complete transparency was maintained by he at all stages. The CoC was duly informed of the actions taken, including details of transfer charges collected, and no objections were raised at the relevant time.

2.5.13 He submitted that with specific reference to Section 28(1)(k) of the Code, the said provision required prior approval of the CoC for undertaking certain actions beyond the ordinary course of business. In the present case, the levy and collection of transfer charges were undertaken strictly in continuation of preexisting contractual arrangements under the BBA and in the ordinary course of business of the CD. Accordingly, the same does not fall within the ambit of transactions requiring prior approval under Section 28(1)(k).

2.6. **Analysis and Findings of the DC**

Transfer Charges

2.6.1 The DC notes that Section 28(1)(k) of the Code requires prior CoC approval for transfer of rights or financial debts or operational debts under material contracts otherwise than in the ordinary course of business. Even if the BBA contained a clause permitting levy and revision of transfer charges, the commencement of the CIRP replaced the existing management with RP under CoC oversight and it fundamentally changed the governance framework. The RP was not a continuation of the erstwhile management and cannot exercise contractual powers unilaterally without regard to the oversight role of the CoC. The aggregate collection of Rs.3.55 crore from transferee allottees on account of transfer charges is not a routine or incidental operational activity but a decision with substantial financial implications for a specific class of stakeholders. Such a decision required prior deliberation and approval of the CoC.

2.6.2 The DC further notes that the matter of transfer charges was raised by homebuyers in the 26th CoC meeting held on 06.06.2025. Despite specific objections being recorded in the CoC minutes, no resolution was placed before the CoC seeking ratification or approval of the transfer charges.

2.6.3 In view of the foregoing, the DC notes that Mr. Sanjay Gupta levied and enhanced transfer charges, resulting in collection of Rs. 3.55 crore, without obtaining prior approval of the CoC, in contravention of Section 28(1)(k) of the Code read with Clauses 1, 2, 12 and 14 of the Code of Conduct and holds the contravention.

Cancellation of Units

2.6.4 The DC notes the submission of Mr. Sanjay Gupta that no units were actually cancelled by him and that the reference to cancellation of 17 units in the minutes of the 11th CoC meeting held on 24.08.2021 was inadvertent, reflecting only the issuance of final notices. The DC also notes the submission that current ownership of all 17 units continued to vest with the original allottees.

2.6.5 Further, Sections 17 and 20 of the Code cast upon the RP the duty to manage the operations of the CD as a going concern and to preserve and protect its assets of the CD. Cancellation of an allotment is not a step taken in furtherance of preserving the CD's assets or maintaining it as a going concern; rather, it is an act that permanently extinguishes the contractual and financial rights of an allottee who, as a homebuyer, stands recognised as a financial creditor of the CD. The Code does not confer upon the RP any power to alter, curtail, extinguish, or otherwise modify the substantive rights of creditors. An act resulting in the extinguishment of a creditor's rights therefore falls outside the scope of the RP's statutory functions and powers. The RP cannot, consequently, treat cancellation of homebuyers' units as a routine administrative function undertaken in the ordinary course of business. Moreover, the RP is

under a corresponding obligation to ensure complete transparency with respect to the claims and rights of homebuyers. All material information pertaining to homebuyers, including the status of their allotments, claims admitted or rejected, amounts received from them, and any issues concerning their units ought to be fully and accurately disclosed in the Information Memorandum. Such disclosure is essential to enable the CoC, prospective resolution applicants, and the AA to make informed decisions during the CIRP.

2.6.6 Further, even the CoC does not possess any authority to unilaterally cancel, extinguish, or nullify the claim of a creditor whose rights arise under a subsisting contract and are otherwise recognised. The commercial wisdom of the CoC extends to matters entrusted to it by the Code, but it does not encompass the adjudication or extinguishment of vested legal rights of creditors. The RP cannot seek to shield himself behind a decision of the CoC in this regard. As the Chairperson of the CoC and the statutory officer entrusted with conducting the CIRP, the RP bears an independent obligation to ensure that the process is carried out in accordance with the provisions of the Code and the applicable regulations. The RP is required to act fairly, transparently, and in a manner that protects the interests of all stakeholders. Where a proposed course of action exceeds the powers conferred by the Code or results in the unlawful extinguishment of a creditor's rights, the RP is under a duty not to facilitate or implement such action merely because it has been discussed or approved by the CoC. Any contrary approach would undermine the statutory safeguards embedded in the insolvency framework and erode stakeholder confidence in the integrity of the CIRP.

2.6.7 The DC notes that regardless of whether actual cancellations were done or not, the minutes of the 11th CoC meeting recorded that the RP had cancelled 17 units after issuing three notices and that such units were proposed to be offered to Phase 3 buyers or put to sale through e-auction. Mr. Sanjay Gupta does not have the power to even initiate proposal for cancellation of units of the CD by sending notices to the allottees and take such proposal to the CoC for approval. In view of the foregoing, the DC holds the contravention for initiating proposal and seeking approval from the CoC for cancelling the units of the financial creditor allottees.

<u>**Contravention-III**</u>

2.7. **Improper reduction and reconstitution of homebuyers' claims during CIRP.**

2.7.1 Section 208(2)(a) and (e) of the Code provides for an Insolvency Professional (IP) to take reasonable care and diligence while performing his duties; and to perform his functions in such manner and subject to such conditions as may be specified. Regulation 7(2)(h) of the IP Regulations specifies that the IP shall abide by the Code of Conduct specified in the First Schedule to these Regulations. Clause 14 of Code of Conduct requires that an IP must not act with mala fide or be negligent while performing its functions and duties under the Code.

2.7.2 It was noted that in the 21st meeting of the CoC held on 04.12.2024. Mr. Sanjay Gupta apprised the CoC of a proposed reconstitution on account of reduction in the claims of

homebuyers during the CIRP. The basis cited for such reduction was that certain allottees had allegedly been handed over possession of their residential units, and accordingly, such units were proposed to be excluded from the asset pool of the CD. Pursuant to this proposal, the claims of homebuyers were reduced.

2.7.3 In response, Mr. Sanjay Gupta justified such reconstitution by relying upon Regulation 46A of the IBBI (Liquidation Process) Regulations, 2016, and possession letters issued to certain allottees. It is pertinent to note that Regulation 46A operates in the context of liquidation proceedings and provides for exclusion of assets from the liquidation estate as the units for which possession has already been given to the allotees cannot be made part of the asset pool proposed to be sold. In the present case, Mr. Sanjay Gupta relied upon possession or fit-out letters to justify exclusion of the concerned units and reduction of claims. However, mere issuance of possession or fit-out letters does not, by itself, result in transfer of ownership, which can occur only through execution and registration of a valid sale deed. Any reduction or exclusion of homebuyers' claims solely on the basis of possession letters, without completion of legal transfer of ownership, results in claims being admitted or revised in a manner that does not accurately reflect the legal rights and liabilities between the corporate debtor and the concerned allottees.

2.7.4 Section 25(2)(e) of the Code provides that the RP shall maintain an updated list of claims. Further, Regulation 13(2) of CIRP Regulations *inter-alia* provides for list of creditors to be filed on the electronic platform of the Board for dissemination on its website. It is observed that Mr. Sanjay Gupta had filed the list of creditors on the Board's website on 11.09.2021 and no subsequent revisions in list of creditors were filed on the website of the Board.

2.7.5 In view of the above, the Board held *prima facie* view that Mr. Sanjay Gupta had contravened Section 25(2)(e) of the Code, Regulation 13(2) of CIRP Regulations, read with Clause 14 of the Code of Conduct specified in IP Regulations.

2.8. **Submissions by Mr. Sanjay Gupta.**

2.8.1 Mr. Sanjay Gupta submitted that during the CIRP, he ensured continuation of the CD as a going concern and undertook substantial efforts towards completion of the real estate project "The Aranya." The Phase I and Phase II of the Project of the CD were completed to the extent of approximately 90%, while ensuring that the CD was maintained as a going concern throughout the CIRP of the CD. The possession of the units were handed over to the respective allottees of the CD through the issuance of Fit-Out Letters, after securing all requisite statutory approvals and clearances from the Noida Authority i.e., the Fire Safety Certificate, Structural Stability Certificate, and necessary permissions in relation to the Sewage Treatment Plant and the Water Treatment Plant. Moreover, the RP, while ensuring that the CD continued to function as a going concern, successfully procured a Permanent Electricity Connection for the Project from the concerned Authorities. That in addition thereto, he facilitated the Installation of Additional Lifts in Eight (8) Towers of the Project,

thereby significantly enhancing the accessibility and convenience for the Allottees of the Corporate Debtor.

2.8.2 That the Phase-1 & Phase-2 of the Aranya Project, undertaken by the CD, were duly registered by the RERA vide registration no. UPRERAPRJ6974 (Phase 2) and UPRERAPRJ6846 (Phase 1) and is duly reflected in the Uttar Pradesh RERA website. He submitted that the AA, while deciding the NOIDA application, duly acknowledged order dated 12.01.2026 that approximately 850 units were handed over to allottees on a fit-out basis, out of which more than 150 allottees have further created third-party interests, and around 800 allottees have obtained electricity connections and are residing in their respective units with their families. These facts demonstrated that the units had attained a stage of effective possession and beneficial enjoyment by the Allottees and the same was not objected by the AA as well.

Relevant Provisions of the IBC and CIRP Regulations for updation of claims

2.8.3 Mr. Sanjay Gupta submitted that the treatment and revision of claims of homebuyers/allottees was undertaken in accordance with the statutory mandate and settled legal principles. Statutory duty under Section 25(2)(e) of the Code Section 25(2)(e) of the Code expressly provides that it shall be the duty of the RP to *"maintain an updated list of claims."* In compliance with the aforesaid provision, the RP has continuously updated the list of claims to reflect the correct and subsisting liability of the CD. This included revision of claims wherever warranted by subsequent developments, including settlement or part satisfaction of claims.

2.8.4 Regulation 12 of the CIRP Regulations provides that a creditor shall submit proof of claim within the stipulated time in the prescribed form. Further Regulation 13(1) mandates that the IRP or RP shall verify every claim as on the insolvency commencement date. In compliance with the above, the claims of homebuyers were duly received, verified, and admitted based on available records and supporting documents. Duty and Powers of RP under Regulation 14 (Determination of Amount of Claim) Regulation 14 of the CIRP Regulations provides *"Where the amount claimed by a creditor is not precise due to any contingency or other reason, the Interim Resolution Professional or the Resolution Professional, as the case may be, shall make the best estimate of the amount of the claim based on the information available with him."* Regulation 14(2): *"The Interim Resolution Professional or the Resolution Professional, as the case may be, shall revise the amounts of claims admitted, including the estimates of claims made under sub-regulation (1), as soon as may be practicable, when he comes across additional information warranting such revision."* Thus, Regulation 14 casts a continuing duty upon the RP not only to initially determine claims (including by estimation where necessary), but also to revise and update the admitted claims whenever new facts or developments come to light

2.8.5 In the present case, subsequent to admission of claims, the homebuyers were allotted and given possession of their respective units on a fit-out basis. This constitutes a material subsequent development, resulting in partial satisfaction of their claims. Accordingly, in discharge of the statutory obligation under Regulation 14(2) of CIRP Regulations, the RP revised the admitted claims to reflect only the balance outstanding liability, i.e., limited to incomplete/common facilities such as the clubhouse. Consequently, the voting share of such homebuyers was revised in proportion to their reduced admitted claims. This is a necessary and automatic consequence of compliance with Section 25(2)(e) of the Code read with Regulations 13 and 14. The handing over of units (even on a fit-out basis) results in substantial discharge of the financial liability of the CD towards the homebuyers. The residual claim survives only to the extent of pending obligations such as provision of common amenities (e.g., clubhouse). The Hon'ble Supreme Court in *ICICI Bank Limited v. Era Infrastructure (India) Limited*, at Paragraph 98, has categorically reiterated: *"In addition to regulation 12A, obligation is also cast upon the resolution professional to independently assess and update the claims from time to time. Reference may be made to regulation 14 of the 2016 Regulations"*. In such a situation, allowing the homebuyer to retain both the flat and the full monetary claim would result in unjust enrichment, which is not permissible under insolvency law. Accordingly, the RP is duty-bound to revise, reduce, or extinguish the claim to reflect the actual outstanding liability.

2.8.6 The amended Regulation 46A of the Liquidation Regulations excludes such assets handed over to the allottees of the CD in a real estate project from the liquidation estate of the CD. The units for which the possession letters are issued by the Liquidator and the possession are handed over by the Liquidator to the allottees of the CD, have been excluded from the liquidation estate of the CD as envisaged under Section 36 of the Code. Similarly, the assets/ units for which the possession has been handed over by the RP to the Allottees of the CD, would neither reflect in the IM of the CD as prepared by the RP nor form part of the Resolution Plan during the CIRP. The Liquidation Regulation 46A shall apply in case of CIRP as well. The units do not form part of the IM prepared under Regulation 36 of the CIRP Regulations, as they no longer constitute Assets available for Resolution Plan. They are also excluded from the scope of the Resolution Plan, as no economic or legal interest vests in the CD for such units post possession. Given this context, while Regulation 46A is textually placed within the Liquidation Regulations, its substantive effect and legal rationale extend to the CIRP stage as well, particularly in cases where the possession has already been effected by the RP to the allottees of the CD. Thus, in a situation where the possession of the units stands transferred to the allottees, it is Regulation 46A of the Liquidation Regulations which operates with an overriding effect and applies during the CIRP phase as well, to prevent such units from being re-appropriated or dealt with under the guise of the Resolution of the CD. The interpretation given by the RP in the 21st COC Meeting to the CoC Members of the above-mentioned regulation was mentioned in the minutes of the meeting and the relevant para of the same was referred as under:-

"As per the abovementioned regulation, the RP apprised the CoC members that the treatment of units for which possession has been handed over to the homebuyers either before the commencement of CIRP or during CIRP would be dealt differently than the units for which possession has not been handed over to the allotees yet. The amendment stipulates that any units for which possession has already been handed over to the homebuyers shall not be included as part of the liquidation estate. This provision is specifically designed to protect the interests of homebuyers, ensuring that they are not adversely impacted by the liquidation proceedings and that their rights to the units are preserved. The RP emphasized that this amendment provides a safeguard for homebuyers by mitigating the potential consequences of liquidation, thus ensuring that their investments are protected and they are not displaced by the ongoing insolvency proceedings."

2.8.7 Mr. Sanjay Gupta further relied on the discussion paper on Real estate related proposals- CIRP & Liquidation dated 06.11.2023, the Para 2 (ii) of the same is reproduced below:-

*"**2. Implementation of Amitabh Kant's Committee Report on Real-Estate projects***
(ii) Transfer of ownership/possession to allotees: The Committee proposes that the IBC may enable Resolution Professionals (RPs) to transfer the ownership and possession of a plot, apartment, or building to the allottees during the resolution process. An option may also be given to allotees to acquire such units on 'as is where is' basis or on payment of balance required to complete the unit during the process. Houses which are under possession of allotees should not be included in the IBC process. "

2.8.8 Mr. Sanjay Gupta submitted that the same process was followed by him to maintain the status as going concern in the interest of the homebuyers. Further, it was submitted that the regulatory framework has now been further clarified and strengthened with the introduction of Regulation 4E under the CIRP Regulations (effective February 2025), which expressly provides that the RP, upon approval of the CoC with not less than sixty-six percent voting share, shall hand over possession of plots, apartments, or buildings to allottees who have fulfilled their contractual obligations and have requested for such possession. Regulation 4E is reproduced below:-

"4E. Handing over the possession.
After obtaining the approval of the committee with not less than sixty-six percent of total votes, the resolution professional shall hand over the possession of the plot, apartment, or building or any instruments agreed to be transferred under the real estate project and facilitate registration, where the allottee has requested for the same and has performed his part under the agreement."

2.8.9 It was further submitted that the said provision reinforces the approach adopted by him, as it statutorily recognizes the authority and obligation of the RP to facilitate handing over of possession during CIRP itself, thereby acknowledging that such units, once handed over,

stand effectively excluded from the pool of assets available for resolution. Further, the RP during 26th CoC meeting held on 06.06.2025 apprised the CoC about the following details:-

- Units numbers which were sold by the suspended management.
- Unit Numbers which were already taken fit-outs (during CIRP plus before CIRP).
- Outstanding amount against each unit, which were sold but the owners did not taken possession.
- Units which were transferred during CIRP period.
- Summary of Tower wise collection & tower wise outstanding balance of the allottees.

2.8.10 In view of the above, Mr. Sanjay Gupta submitted that the reliance placed by him on Regulation 46A of Liquidation Regulations and its application during CIRP was legally justified, purposive, and in alignment with the object of the Code to protect stakeholder interests, particularly those of homebuyers. He applied the Regulation in broad sense to protect the homebuyers interest keeping in view the possibility of slipping the CD into liquidation in view of the objection application filed before AA by the NOIDA authority seeking direction to remove the land from the CIRP of the CD as it belonged to the another company (i.e. IVRL Aranya Projects Pvt Ltd) as per lease agreement executed by the Noida Authority. By handing over the possession, the RP safeguarded the interest of the homebuyers and their units will be excluded from the liquidation estate if company goes into Liquidation.

2.8.11 He submitted that the RP, on request of the homebuyers, completed the construction of their unit, took the balance sale amount and handed over the fitout possession. The RP did not exclude the units but reduced the claim of those 800 claimants (homebuyers -financial creditors) whose units were handed over to the respective homebuyers and the claims were rationally revised to reflect the changed status of their claims. The reduction in claim was necessitated on account of the fact that upon handing over possession and receipt of the balance consideration, the financial exposure of the CD towards such allottees stood substantially reduced. The execution and registration of sale deeds in favour of such homebuyers was not possible due to substantial outstanding dues of more than Rs.300 crore payable to the NOIDA Authority. Also, consequently, when claims were updated, such as in cases where homebuyers were handed over possession and their claims were reduced or extinguished, the voting share structure changed, and the CoC must be correspondingly reconstituted to reflect the correct financial position of creditors. Judicial practice under the IBC also supported that the CoC was a dynamic body and can be reconstituted at any stage of CIRP to ensure accurate representation of financial creditors based on updated claims. Further, on 03.02.2025, the Legal Opinion dated 30.01.2025 was duly received from the Legal Counsel of the RP which was subsequently circulated to all members of the CoC as well. The legal opinion provided clarity on the matter, conclusively determining that, in line with the relevant provisions of the IBC and the applicable regulations, the provisional voting shall be conducted on the basis of the new voting share as per the re-constituted CoC, and same shall be deemed as confirmed voting when the application of reconstitution was taken

on record by the AA. Pursuant to the observations raised and in compliance with the legal position laid down by the Hon'ble Supreme Court in *Arcelor Mittal India Private Limited vs. Satish Kumar Gupta* and relevant judgments, the RP filed an application before the AA for reconstitution of the CoC on 19.02.2025. Same was taken on record *vide* order dated 28.04.2025.

2.8.12 He further submitted that the list of creditors submitted to the IBBI corresponded to the position as on 11.09.2021, i.e., the date relevant for creditors who participated in voting on the Resolution Plan. The said list was not subsequently updated to reflect the reconstitution of the CoC, in order to maintain consistency with the voting record pertaining to the Resolution Plan and to avoid any inadvertent confusion or misinterpretation of historical voting data. The reconstitution exercise was a dynamic and evolving process undertaken during CIRP, whereas the list submitted earlier represented a static snapshot relevant for a specific stage of the process. The non-updation of the said list was neither deliberate nor intended to misrepresent facts but was solely to preserve clarity in relation to the voting outcome on the Resolution Plan.

2.8.13 He submitted that he updated/reduced the claims primarily under Regulation 14 read with Sections 18 & 25 of IBC, to update or reduce homebuyer claims after possession was handed over during CIRP; and subsequently CoC was reconstituted, and the legal basis was Section 21 of IBC read with Section 25 and Regulation 14 of CIRP Regulations. Accordingly, the allegation of improper reduction and reconstitution of homebuyers' claims is unfounded and liable to be dropped.

2.9. **Analysis and Findings of the DC**

2.9.1 The DC notes that Regulation 46A of Liquidation Regulations operates within the framework of the Liquidation Regulations. Its extension to the CIRP stage is not supported by any statutory basis. The RP has offered an interpretation in support, which cannot substitute for a clear statutory mandate. Further, Regulation 4E of the CIRP Regulations relied by Mr. Sanjay Gupta expressly provides a framework for handing over possession and facilitate registration during CIRP with CoC approval of not less than sixty-six percent voting share. It does not talk about reduction of claim solely on the basis possession without transferring ownership.

2.9.2 The DC notes that a homebuyer's claim against the CD is not extinguished by mere handover of possession in the absence of execution and registration of a sale deed, which alone constitutes legal transfer of ownership. Until a registered sale deed is executed, the homebuyer retains a subsisting financial claim against the CD for the full value of the contractual entitlement, including clear title and ownership. Reducing such claims solely on the basis of possession letters therefore results in an inaccurate and legally unsustainable reflection of the CD's liabilities.

2.9.3 In the present case, Mr. Sanjay Gupta himself acknowledged that the Occupancy Certificate was not obtained on account of outstanding dues payable to the NOIDA Authority. In the absence of an Occupancy Certificate, the fit-out letters issued by the RP cannot be treated as constituting lawful or legally complete delivery of possession. Consequently, the financial claim of a homebuyer against the CD cannot be said to have been satisfied, even partially, merely on the basis of such fit-out letters. The RP's act of reducing homebuyers' claims on the basis of possession letters issued without a valid Occupancy Certificate was therefore not only legally unsustainable under the CIRP framework but was also inconsistent with the settled position in law regarding what constitutes lawful delivery of possession.

2.9.4 The DC also notes that the reconstitution of the CoC upon such claim reductions had a direct bearing on voting shares and power within the CoC. This affects their ability to participate meaningfully in decisions regarding various resolutions in CoC matters.

2.9.5 With regard to the non-updation of the list of creditors on the Board's website, Mr. Sanjay Gupta submitted that such revision may create confusion with historical voting data. The Board's electronic platform maintains a comprehensive record of all lists of creditors filed from time to time, each identifiable by its respective date of filing. Prior lists are neither deleted nor rendered inaccessible upon filing of a subsequent updated list. Anyone can readily access the corresponding dated list. The filing of an updated list therefore does not disturb, overwrite, or create any ambiguity in relation to earlier records. The RP's stated rationale of preserving historical clarity is therefore unfounded and does not constitute a valid justification for non-compliance with a continuing statutory obligation under Regulation 13(2) of the CIRP Regulations.

2.9.6 The DC further notes that in his submissions to Contravention-I, he contended that in the absence of a formal revised claim from M/s Nupur Finvest Pvt. Ltd., he could not *suo motu* revise the admitted claim and that the obligation to update the claim rested with the creditor under Regulation 12A. However, in his defence to Contravention-III, he took a opposite position, contending that upon handing over fit-out possession to homebuyers, he was not only empowered but obligated under Regulation 14(2) to independently and *suo motu* reduce their admitted claims, on the ground that allowing homebuyers to retain both possession and the full monetary claim would result in unjust enrichment. The DC is of the view that the RP cannot selectively invoke the principle of *suo motu* revision under Regulation 14(2) when it suits a particular outcome, while simultaneously disclaiming the same power when it operates in favour of a different class of creditors. The obligation under Regulation 14(2) is uniform and does not permit the RP to apply it selectively depending on which creditor's claim is sought to be revised. In view of the foregoing, the DC holds the contravention.

3. Order.

3.1. The DC in exercise of the powers conferred under section 220 of the Code read with Regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 hereby suspends registration of Mr. Sanjay Gupta (Registration No. IBBI/IPA-001/IP-00117/2017-18/10252) for a period of 2 years. During the suspension period, Mr. Sanjay Gupta will be ineligible to continue with the present assignment, i.e., M/s Unnati Fortune Holdings Limited (UFHL). The CoC of UFHL will recommend the appointment of new RP. He shall handover records of the CD to new RP appointed by the CoC/AA.

3.2. This order shall come into force after 30 days from the date of issuance of this order.

3.3. A copy of this order shall be forwarded to The Indian Institute of Insolvency Professional of ICAI (IIIPI) where Mr. Sanjay Gupta is enrolled as a member.

3.4. A copy of this order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal, New Delhi, for information.

3.5. Accordingly, the show cause notice is disposed of.

Sd/-
(Ravi Mital)
Chairperson
Insolvency and Bankruptcy Board of India

Dated: 16 June 2026
Place: New Delhi