

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Disciplinary Committee)

No. IBBI/DC/291/2025

15 July, 2025

ORDER

This Order disposes of the Show Cause Notice (SCN) No. COMP-11012/127/2024-IBBI dated 04.10.2024, issued to Mr. Kairav Anil Trivedi, an Insolvency Professional registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with Registration No. IBBI/IPA-002/IP-N00728/2018-2019/12332, who is a Professional Member of the Insolvency Professional Agency of ICSI Institute of Insolvency Professionals.

1. Background.

- 1.1 A Show Cause Notice dated 26.10.2023 had been issued to Mr. Kairav Anil Trivedi and the same was disposed of by the Disciplinary Committee (DC) of the IBBI *vide* order dated 17.12.2024 suspending the registration of Mr. Kairav Anil Trivedi as IP for a period of two years. Further, another Show Cause Notice dated 10.04.2024 had been issued to Mr. Kairav Anil Trivedi and the same was disposed of by the DC of the IBBI *vide* order dated 21.03.2025 suspending the registration of Mr. Kairav Anil Trivedi as IP for a period of two years.
- 1.2 As per the orders available on the website of the National Company Law Tribunal, it was observed that Bank of Baroda (BOB) had filed an application under section 95 of the Code through Mr. Kairav Anil Trivedi for initiating insolvency resolution process against personal guarantor, Mr. Jitendra V Kikavat of the CD - Mahavir Roads and Infrastructure Pvt Ltd. Thereafter, Adjudicating Authority ('AA') *vide* an order dated 25.01.2024 appointed Mr. Kairav Anil Trivedi as RP in the said insolvency resolution process of the personal guarantor, basis his consent and as proposed by the creditor, BOB. The aforementioned series of events indicate that Mr. Kairav Anil Trivedi undertook new assignment despite suspension of his AFA and had also been continuing the process.
- 1.3 Based on the documents available on record, the Board formed a *prima facie* view that by accepting assignments despite the suspension of his AFA, Mr. Kairav Anil Trivedi has contravened several provisions of the Code and Regulations. Accordingly, the Board issued the SCN to Mr. Kairav Anil Trivedi on 04.10.2024 and provided him the opportunity to submit his response on the allegations mentioned in the SCN by 18.10.2024.

- 1.4 However, rather than responding on the merits of the allegations mentioned in the SCN, Mr. Kairav Anil Trivedi vide his email dated 18.10.2024 to the Board sought certain information as follows-
- a) confirmation that the SCN is not in violation of the stay order granted by Hon'ble Bombay High Court in W.P. (L) No. 16317 of 2023,
 - b) documents on record to show necessary precaution being exercised by IBBI before issuance of the SCN,
 - c) copy of complaint which led to issuance of the SCN,
 - d) copy of opinion formed under regulation 7(7) of IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017 for issuance of SCN,
 - e) copy of opinion formed under regulation 7(8) of IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017.
- 1.5 He also mentioned that he sought certain information vide RTI application Registration Number- ISBBI/R/E/24/00224 dt. 10.10.24 and sought additional 2 weeks' time from the receipt of reply of RTI response. To this, the Board responded to Mr. Kairav Anil Trivedi vide letter dated 24.10.2024 and apprised him that the SCN had been issued in terms of Regulation 11(2) of the IBBI (Inspection and Investigation) Regulations, 2017. Regulation 11(2) empowers the Board to issue SCN if on the basis of materials available on record it is of the prima facie opinion that sufficient cause exists to take actions under section 220 or sub-section (2) of section 236 of the Code. Along with this letter dated 14.10.2024, Mr. Kairav Anil Trivedi was also provided the extracts of noting by which the Board had formed the prima facie opinion regarding contravention by Mr. Kairav Anil Trivedi. An extended time till 30.10.2024 was provided to Mr. Kairav Anil Trivedi to submit his reply to the SCN. However, no response was received from Mr. Kairav Anil Trivedi.
- 1.6 The Board vide email dated 12.03.2025 communicated to Mr. Kairav Anil Trivedi regarding scheduling of personal hearing on 20.03.2025. Mr. Kairav Anil Trivedi vide his email dated 18.03.2025 sought 31 different documents with respect to the issuance of SCN and mentioned that only after receipt of such documents, he would be able to submit his reply. To this, vide email dated 19.03.2025, it was communicated to Mr. Kairav Anil Trivedi that as already communicated vide letter dated 24.10.2024, the SCN has been issued in terms of Regulation 11(2) of the IBBI (Inspection and Investigation) Regulations, 2017 and therefore the documents as sought by him are

not applicable in respect of SCN issued to him. It was also suggested that he can raise these issues during the personal hearing scheduled on 20.03.2025. However, he did not attend the personal hearing before the DC.

1.7 However, he was granted another personal hearing on 24.06.2025 and was informed about scheduling of the same vide email dated 18.06.2025. To this, Mr. Kairav Anil Trivedi vide his email dated 23.06.2025 submitted his response raising the issue of non-furnishing of documents as earlier sought by him and also challenging the validity of the earlier SCNs and DC Orders.

1.8 In this regard, vide email dated 27.06.2025, Mr. Kairav Anil Trivedi was informed that responses to his queries had already been provided through earlier communications (as referenced above). Further, a detailed table was also provided which listed the 31 documents or issues raised by him in his email dated 18.03.2025, comments pointing out how the documents have been either supplied or not relevant, Excerpts from Email dated 19.03.25 which already answer these issues. Comments pointing out how the documents have been either supplied or not relevant pertained to 4 broad categories and were replied in the following manner : -

- a) Queries at Serial Nos. 1 to 16 primarily pertained to the alleged procedural requirements under the IBBI (Inspection and Investigation) Regulations, 2017, particularly the existence of an internal investigation and compliance with steps outlined in Regulations 7 to 10B. Comments pointed out that the Board has categorically clarified that no investigation was conducted in the present matter and that the Show Cause Notice dated 04.10.2024 was issued strictly in terms of Regulation 11(2) based on material available on record. Consequently, these queries were found to be irrelevant and this reply was already communicated to Mr. Kairav Anil Trivedi through IBBI's communications dated 24.10.2024 and 19.03.2025.
- b) Queries at Serial Nos. 17 to 20 related to the basis and supporting material for the formation of a prima facie opinion under Regulation 11(2). In reply to the same, comments pointed out that the Board had already provided the extract of file noting, evidencing the formation of such an opinion, through its letter dated 24.10.2024 and in response to the RTI bearing reference number ISBBI/R/E/25/00139.
- c) Queries from Serial Nos. 21 to 24 raised issues regarding whether the Board had duly considered the factors specified under Regulation 12(2) of the said Regulations prior to issuance of the SCN. In response to the same, the Comments clarified that such factors were indeed taken into account while framing the SCN. For instance, paragraphs 8 and 10 of the SCN demonstrate consideration

of the seriousness, nature, and impact of the alleged contraventions, including the unfair advantage gained and the prior and subsequent conduct of Mr. Kairav Anil Trivedi.

d) Queries numbered 25 to 31 pertained to compliance with the IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017, implying that the SCN was issued based on a complaint. In response, the Comments clarified that the SCN in the present case is not complaint-based, and was issued suo motu under Regulation 11(2) after forming a prima facie view based on materials available on record.

1.9 The Board vide the said email dated 27.06.2025, informed Mr. Kairav Anil Trivedi that the personal hearing has been scheduled for 02.07.2025 and it was mentioned that since earlier personal hearings were adjourned on his request, it shall be the final opportunity of personal hearing to Mr. Kairav Anil Trivedi. Thereafter,

1.10 Mr. Kairav Anil Trivedi vide his email dated 01.07.2025 submitted his further submissions to the SCN but not specifically on the merit. He appeared for personal hearing on 02.07.2025 and submitted additional submissions through email dated 09.07.2025.

2. Alleged contravention, submissions of Mr. Kairav Anil Trivedi and findings of the DC

The contravention alleged in the SCN, submissions by Mr. Kairav Anil Trivedi and findings of the DC are summarized as follows:

Contravention: Accepting assignment as RP without having a valid AFA.

2.1. It was observed that Regulation 7A of the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations), provides that an Insolvency Professional (IP) shall not accept or undertake an assignment unless he holds a valid authorisation for assignment (AFA) on the date of such acceptance or commencement of such assignment, as the case may be. Further, as per Clause 23A of the Model Bye-laws specified in the Schedule to IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 (Model Bye-Laws Regulations), the AFA shall stand suspended upon initiation of disciplinary proceedings by the Insolvency Professional Agency (IPA) or by the Board, as the case may be. Explanation under Clause 23A of the Model Bye-laws specified in the Schedule to Model Bye-laws Regulations further provides that a disciplinary proceeding shall be considered as pending against the professional member from the

date he has been issued a show cause notice by the IPA or the Board, as the case may be, till its disposal by the Disciplinary Committee (DC) of the Agency or the Board, as the case may be.

- 2.2. Also, in terms of Regulation 4(1)(b) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019, an IP shall be eligible to be appointed as a resolution professional (RP) for a resolution process if he is not subject to any ongoing disciplinary proceeding or restraint order of the Board or the IPA of which he is a professional member.
- 2.3. Thus, pursuant to issuance of the aforesaid SCNs dated 26.10.2023 and 10.04.2024, Mr. Kairav Anil Trivedi's AFA was suspended and was ineligible to accept or undertake any assignment under the Code pending disposal of the SCNs in his favour.
- 2.4. Therefore, in terms of Regulation 7A of IP Regulations read with Clause 23A of the Model Bye-laws specified in the Schedule to the Model Bye-Laws Regulations along with explanation under it and Regulation 4(1)(b) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019, Mr. Kairav Anil Trivedi was not eligible to accept any new assignments under the Code from 26.10.2023 (the date of issuance of SCN), till its disposal.
- 2.5. It was however observed that after suspension of Mr. Kairav Anil Trivedi's AFA on issuance of the SCN dated 26.10.2023, in utter defiance of law and disciplinary action initiated against him, he has accepted assignment as RP in the matter of Mr. Jitendra V. Kikavat, Personal Guarantor to CD, M/s Mahavir Roads and Infrastructure Pvt. Ltd vide AA order dated 25.01.2024. Para 8 of order dated 25.01.2024 mentions that Mr. Kairav Anil Trivedi had given written consent in Form A to act as RP in the aforesaid matter. Based on Mr. Kairav Anil Trivedi's consent, AA appointed him as RP in the aforesaid matter when Mr. Kairav Anil Trivedi was ineligible to accept or undertake any assignment on 25.01.2024.
- 2.6. Further, the order of AA dated 30.07.2024, in para 23, also brings out submission of report by him to the AA under Section 99 of the Code making recommendations for acceptance of the application based on which AA passed order for commencement of insolvency process in respect of the Personal Guarantor to CD, M/s Mahavir Roads and Infrastructure Pvt. Ltd.
- 2.7. As the SCNs as stated above have been duly served and delivered upon Mr. Kairav Anil Trivedi, the above facts and circumstances clearly suggest that Mr. Kairav Anil Trivedi has actively concealed the fact of being disqualified from the creditors and AA. Such brazen defiance shows not only the reckless and negligent conduct on Mr. Kairav Anil Trivedi's part but also shows his

audacity and obstinacy. The facts and circumstances as aforesaid suggest mala fide on Mr. Kairav Anil Trivedi's part considering the degree of responsibility bestowed upon him under the Code and Regulations. The law cannot permit any allowance to be made for such reckless conduct and lethargic indifference.

- 2.8. In view of the above, the Board, based on the material on record, was of the prima facie view that by accepting assignment as RP without having valid AFA, Mr. Kairav Anil Trivedi has contravened provisions of Section 208(2)(a) and Section 208(2)(e) of the Code, Regulation 4(1)(b) of IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 and Regulation 7(2)(a) and 7(2)(h) and Regulation 7A of IP Regulations read with Clause 1, 2, 12 and 14 of the Code of Conduct for Insolvency Professionals under First Schedule of IP Regulations (Code of Conduct).

Submissions by Mr. Kairav Anil Trivedi.

- 2.9. Mr. Kairav Anil Trivedi submitted that the repeated issuance of multiple SCNs by the IBBI, specifically referring to the allegations made in the SCN dated 21.03.2023 and the consequential six-month suspension under the DC order dated 23.05.2023, is a violation of the stay granted by the Hon'ble High Court of Bombay vide order dated 20.06.2023 in Writ Petition (L) No. 16317 of 2023 (Kairav Anil Trivedi vs Union of India & Ors.). Mr. Kairav Anil Trivedi submitted that the present SCN is the fourth one issued against him by the IBBI and none of these SCNs comply with the mandatory requirements under Regulation 12(1)(e) and 12(2)(a) & (b) of the IBBI (Inspection and Investigation) Regulations, 2017.
- 2.10. Mr. Kairav Anil Trivedi further submitted that the acceptance and undertaking of the assignment as Resolution Professional (RP) for the Personal Guarantor under Section 95(1) of the Code was in full compliance with Section 96, Regulation 7A, and Clause 23A of the Model Bye-Laws Regulations. Accordingly, the said assignment is a pending assignment, not a new one post 26.10.2023, and thus remains unaffected by the suspension of his AFA.
- 2.11. Mr. Kairav Anil Trivedi submitted that records with IBBI clearly establish that he had filed Form IP-1 with IBBI on 15.11.2021, indicating his acceptance of the assignment as RP for the Personal Guarantor. Further, the application under Section 95(1) was e-filed with the NCLT on 31.12.2021, which date constitutes the date of undertaking the assignment, in line with the provisions of Regulation 7A. The Form B – AFA dated 17.12.2021 issued by ICSI IIP was valid on both the date of acceptance and the date of undertaking of the assignment. Accordingly, the assignment in

question is a continuing one from 2021 and is not impacted by the suspension of AFA, in view of IBBI's own affidavit submitted to the Hon'ble High Court that suspension of AFA would not bar continuation of pending assignments.

- 2.12. Mr. Kairav Anil Trivedi further submitted that the basis for the present SCN, that he had allegedly gave a fresh consent post 26.10.2023 is denied and the only consent on record submitted by Mr. Kairav Anil Trivedi for the given assignment is dated 15.11.2021, duly filed with IBBI and accompanied by a valid AFA.
- 2.13. Mr. Kairav Anil Trivedi further submitted that the appointment made by the AA was based on the consent dated 15.11.2021 and the application filed under Section 95(1) on 31.12.2021. Thus, the allegation that the AA relied upon a consent given after 26.10.2023 is factually incorrect and unsupported by any material. In fact, the Financial Creditors and NCLT were made aware of the assignment through the said application and associated documents filed in 2021.
- 2.14. Mr. Kairav Anil Trivedi further placed his reliance upon Paragraph 14 of the Hon'ble Bombay High Court's order dated 09.08.2024 in Writ Petition (L) No. 13865 of 2024, which noted the IBBI's affidavit dated 08.07.2024 wherein it was stated that pending assignments may continue despite AFA suspension. This judicial finding affirms that his ongoing assignment cannot be considered a violation of AFA conditions.
- 2.15. Mr. Kairav Anil Trivedi referred to Section 95(1) and Section 96(1) of the Code to substantiate that the role of the RP and the initiation of the PG Insolvency Resolution Process begins from the date of filing of the application by the RP, which in this case is 31.12.2021.
- 2.16. Mr. Kairav Anil Trivedi submitted that the allegation in the SCN regarding acceptance of a new assignment post 26.10.2023 under Section 95(1) of the Code as RP to the personal guarantor (PG), Mr. Jitendra Kikavat, is factually and legally incorrect. The RP had filed the application under Section 95(1) by e-filing with NCLT Mumbai (E-filing No. 2709138/00005/2022 dated 01.01.2022), thereby initiating the insolvency resolution process on 31.12.2021 before the SCN dt. 26.01.23. This is supported by Section 96(1) of the IBC, which states that the interim moratorium commences from the date of filing. Therefore, the role of the RP commenced well before the issuance of the SCN dated 26.10.2023.
- 2.17. Mr. Kairav Anil Trivedi further submitted that the allegation of violation of Regulation 7A of the IBBI (Insolvency Professionals) Regulations, 2016, is contrary to the records. Mr. Kairav Anil

Trivedi has accepted the assignment on 15.11.2021 and undertook it on 31.12.2021 with a valid AFA dated 17.12.2021. This complies fully with Regulation 7A, which requires a valid AFA at the time of acceptance and undertaking of an assignment.

2.18. With respect to Clause 23A of the Model Bye-Laws Regulations, Mr. Kairav Anil Trivedi denied issuing any consent in Form A post 26.10.2023 or accepting any new assignment thereafter. He has asserted that the IBBI's own affidavit filed before the Hon'ble Bombay High Court in Writ Petition (Lodging) No. 13865 of 2024 affirms that suspension of AFA under Clause 23A does not prevent continuation of pending assignments.

Analysis and findings of the DC.

2.19. Before delving into the merits of the allegations of the instant SCN, it is apposite to look into certain details of the previous SCNs issues against Mr. Kairav Anil Trivedi as follows:

SCN dated	HC proceedings against SCN	Effect of SCN	DC Order	Period of suspension	HC proceedings against DC order
21.03.2023			23.05.2023	6 months	Interim order dated 20.06.2023 passed in WP filed on 17.06.2023.
26.10.2023	IP challenged both these SCNs in HC on 22.04.2024.	DP pending from 26.10.2023	17.12.2024	2 years	
10.04.2024	HC upheld SCNs by order dated 09.08.2024. No interim order was passed.	DP pending from 10.04.2024	21.03.2025	2 years	

2.20. Mr. Kairav Anil Trivedi submitted that the SCN dated 10.04.2024 is a continuation of the allegations made in the SCN dated 21.03.2023, and therefore in violation of the stay granted by the Hon'ble High Court of Bombay vide order dated 20.06.2023 in Writ Petition (L) No. 16317 of 2023 (*Kairav Anil*

Trivedi vs Union of India & Ors. Interim order dated 20.06.2023 of the Hon'ble High Court of Bombay and the proceedings in the writ petition before it, are only in respect of DC order dated 23.05.2023 where in merits of the matters dealt by DC order have been challenged. It does not concern the SCN dated 26.10.2023 and even SCN dated 10.04.2024 which were subsequently challenged by a Writ Petition dated 22.04.2024 which was dismissed by the Hon'ble High Court by order dated 09.08.2024. Further, the present SCN is only concerned with the effect of SCN dated 26.10.2023 which starts the disciplinary proceedings and not with what has been dealt in the SCN. In any case, once SCN has been issued, the resultant effect is pendency of disciplinary proceedings against Mr. Kairav Anil Trivedi from 26.10.2023 onwards, which has not been stayed by any court order and so these disciplinary proceedings were pending as on 25.01.2024, the day he was appointed as RP in the insolvency resolution process against personal guarantor, Mr. Jitendra V Kikavat of the CD - Mahavir Roads and Infrastructure Pvt Ltd.

2.21. The DC notes the submission of Mr. Kairav Anil Trivedi regarding non-compliance of mandatory requirements under Regulation 12(1)(e) and 12(2)(a) & (b) of the IBBI (Inspection and Investigation) Regulations, 2017 while issuing the previous SCNs and also the instant SCN. However, the DC finds that the contentions regarding issuance of previous SCNs are not relevant for adjudication of the present SCN, which is based on specific facts and allegations distinct from those raised in the previous SCNs. Accordingly, any alleged non-compliance in relation to earlier SCNs or the consequences thereof are not germane to the issues under consideration in the present proceedings. As regards the compliance of mandatory requirements under Regulation 12(1)(e) and 12(2)(a) & (b) of the IBBI (Inspection and Investigation) Regulations, 2017 of the instant SCN is concerned, the same have already been replied to Mr. Kairav Anil Trivedi vide email dated 24.10.2024, reiterated vide email dated 19.03.2025 and also on 27.06.2025 as brought out above in paragraphs 1.5 to 1.8.

2.22. Mr. Kairav Anil Trivedi, vide his email dated 01.07.2025, reiterated that the issuance of multiple SCNs by IBBI are without disclosure of complete records and despite specific requests, accordingly, the same amounts to a breach of Regulation 12 of the IBBI (Inspection and Investigation) Regulations, 2017 and principles of natural justice. The DC makes a pertinent note that the contentions raised have already been addressed by IBBI through its communications dated 19.03.2025 and 27.06.2025, wherein specific responses and relevant documents were provided. However, it appears Mr. Trivedi has selectively ignored these communications and continues to assert non-disclosure, despite the Board's earlier replies and documentary submissions. The DC notes that the reply dated 01.07.2025 proceeds without taking into account the email dated 27.06.2025 and

does not add anything new. The DC therefore reiterates the replies made to him by email dated 27.06.2025 as have been brought out in paragraphs 1.5 to 1.8 of this DC order.

2.23. The DC now proceeds to examine the following contentions raised by IP which are summarised as follows:-

- i) Mr. Kairav Anil Trivedi submitted that the assignment as RP under Section 95(1) was undertaken in full compliance with Section 96 of the Code, Regulation 7A of the IP Regulations, and Clause 23A of the Model Bye-Laws. The said assignment is a continuing one from 2021 and not a fresh one post 26.10.2023, and hence, is unaffected by the suspension of AFA.
- ii) Mr. Kairav Anil Trivedi submitted that under Sections 95(1) and 96(1) of the Code, the RP's role begins from the date of filing of the application. In the given case, the application was filed on 31.12.2021, confirming the commencement of the assignment well before 26.10.2023.
- iii) Mr. Kairav Anil Trivedi denied having given any consent in Form A post 26.10.2023 and submitted that IBBI's own affidavit before the Bombay High Court confirms that suspension of AFA under Clause 23A does not affect pending assignments.

2.24. Before examining the contentions, the DC now proceeds to examine, the Scheme of the Code regarding acceptance of assignment during insolvency resolution process of individuals and partnership firms.

2.25. Chapter III of Part III of the Code provides for insolvency resolution process of individuals and partnership firms. However, vide notification dated 15.11.2019, the Central Government has notified the provisions of this Chapter only to the limited extent for personal guarantors to corporate debtors. In terms of section 94 and 95 of the Code, a debtor himself or a financial creditor, respectively, may initiate the insolvency resolution process by making an application to the Adjudicating Authority, either by itself or through a resolution professional. After the application is filed an interim-moratorium commences in terms of section 96 of the Code.

2.26. In cases where application is filed through a resolution professional, in terms of section 97 of the Code, a confirmation is required to be made with respect to the pendency of any disciplinary proceedings pending against him. The final appointment of resolution professional is done by Adjudicating Authority. The relevant provisions are as follows:

“97. Appointment of resolution professional. –

(1) If the application under section 94 or 95 is filed through a resolution professional, the Adjudicating Authority shall direct the Board within seven days of the date of the application to confirm that there are no disciplinary proceedings pending against resolution professional.

(2) The Board shall within seven days of receipt of directions under sub-section (1) communicate to the Adjudicating Authority in writing either –

(a) confirming the appointment of the resolution professional; or

(b) rejecting the appointment of the resolution professional and nominating another resolution professional for the insolvency resolution process.

(3) Where an application under section 94 or 95 is filed by the debtor or the creditor himself, as the case may be, and not through the resolution professional, the Adjudicating Authority shall direct the Board, within seven days of the filing of such application, to nominate a resolution professional for the insolvency resolution process.

(4) The Board shall nominate a resolution professional within ten days of receiving the direction issued by the Adjudicating Authority under sub-section (3).

(5) The Adjudicating Authority shall by order appoint the resolution professional recommended under sub-section (2) or as nominated by the Board under sub-section (4).

(6) A resolution professional appointed by the Adjudicating Authority under subsection (5) shall be provided a copy of the application for insolvency resolution process.”

2.27. Accordingly, the contention of Mr. Kairav Anil Trivedi that he was appointed as Resolution Professional alongwith the application dated 15.11.2021 filed with the Adjudicating Authority and shared with IBBI through Form IP-1, when there was no SCN issued against him, is misplaced and incorrect understanding of the relevant provisions of the Code and therefore cannot be accepted. If such contentions of Mr. Kairav Anil Trivedi is to be accepted, it would made the statutory provision of section 97 redundant. It should be noted that the submission of written consent in Form A by an Insolvency Professional merely indicates his willingness to act as RP in the given matter and, by itself, does not amount to his appointment in the matter without the AA’s order. In the context of an application under Section 95(1) of the Code, the role of the RP is formally recognized only upon

appointment by the AA under Section 97 of the Code. Accordingly, until such appointment is made by the AA, the RP cannot be deemed to have accepted or undertaken the assignment, regardless of whether a consent form has been submitted expressing willingness to act. The appointment of Mr. Kairav Anil Trivedi was done by the Adjudicating Authority only on 25.01.2024, the day when his AFA was not valid because of the effect of SCN dated 26.10.2023.

2.28. In terms of section 97(1), the Adjudicating Authority confirms from the Board whether any disciplinary proceeding is pending against the Resolution Professional, before its appointment under section 97(5). Therefore, a resolution professional against whom any disciplinary proceeding is pending cannot be appointed as resolution professional. The concept of Authorisation for Assignment granted to an Insolvency Professional assists in operationalising this provision, as in case of pendency of any disciplinary proceeding, the AFA is suspended and therefore an Insolvency Professional cannot take up any new assignments.

2.29. In this regard, Regulation 7A of the IP Regulations provides as follows:

“Authorisation for assignment.

7A. An insolvency professional shall not accept or undertake an assignment after 31st December, 2019 unless it holds a valid authorisation for assignment on the date of such acceptance or commencement of such assignment, as the case may be:

Provided that provisions of this regulation shall not apply to an assignment which an insolvency professional is undertaking as on-

(a) 31st December, 2019; or

(b) the date of expiry of his authorisation for assignment.”

2.30. Further, clause 23A of the Schedule to Model Bye-Laws Regulations provides as follows:

23A. The authorisation for assignment shall stand suspended upon initiation of disciplinary proceedings by the Agency or by the Board, as the case may be

Explanation. - A disciplinary proceeding shall be considered as pending against the professional member from the date he has been issued a show cause notice by the Agency or the Board, as the case may be, till its disposal by the Disciplinary Committee of the Agency or the Board, as the case may be.

- 2.31. The DC notes that one of the benefits of the concept of AFA introduced was to enable the IP to complete the existing assignments unhindered while he is not able to take a new assignment on suspension of AFA. Consequently, Clause 12A in the Schedule of Model Byelaws Regulations was inserted with effect from 23.07.2019 which empowered the Insolvency professional Agency to issue or renew an AFA, subject to fulfilment of certain conditions by the IP including the condition that no disciplinary proceeding is pending against him before the IPA or the Board. Therefore, it can be seen from the above provisions that it is very clear right from inception of the Code that an Insolvency Professional cannot take assignment if disciplinary proceeding is pending against him. Also, the conjoint reading of sections 219 and 220 of the Code makes it aptly clear that the disciplinary proceedings are pending against a service provider as soon as SCN is issued.
- 2.32. The DC observes that Mr. Kairav Anil Trivedi had tendered his written consent in Form A for the assignment on 15.11.2021, which was supported by a valid AFA dated 17.12.2021. Both of these dates are prior to the issuance of the SCN. The DC notes that in the instant matter, the show cause notice(s) were issued to Mr. Kairav Anil Trivedi on 26.10.2023 and therefore in accordance with the provisions as mentioned above, it was incumbent on him not to accept any new assignment after 26.10.2023. The DC also notes that both the SCNs were challenged before Hon'ble High Court of Bombay [Writ Petition (Lodging) No. 13865 of 2024] and the Hon'ble High Court of Bombay vide an order dated 09.08.2024 disposed of the writ petition and observed that they did not find any infirmity in the procedure and jurisdiction regarding these SCNs, and the writ petition was disposed of.
- 2.33. The DC further notes that Mr. Kairav Anil Trivedi had ample opportunity to apprise the Adjudicating Authority regarding suspension of his AFA while proceedings for his appointment as Resolution Professional was ongoing. It is observed that Mr. Kairav Anil Trivedi was representing the Petitioner/Financial Creditor, i.e., Bank of Baroda, in C.P. (IB) No. 139/MB/2022 before the AA, an application filed under Section 95 of the Insolvency and Bankruptcy Code, 2016, seeking initiation of the insolvency resolution process against Mr. Jitendra V. Kikavat, the personal guarantor. Mr. Kairav Anil Trivedi was present during the hearing dated 25.01.2024 before the AA, and even made submissions on behalf of the financial creditor, wherein the AA vide order dated 25.01.2024, appointed him as the RP of the personal guarantor and directed him to submit a report. The relevant paras of the NCLT Order sheet for hearing dated 25.01.2024 is as hereunder:

ORDER

C.P.(IB)139/MB/2022

1) Mr. Kairav Trivedi, Ld. Counsel for the Financial Creditor is present. None present for the Respondent, Personal Guarantor, when the matter is called out.

.....

(3) Ld. Counsel for the Financial Creditor further submits that due to pendency of the said Appeal, the Resolution Professional in the present matter has not yet been appointed. In that view of the matter, we have perused the Company Petition.

.....

(8) Petitioner also submits that Mr. Kairav Anil Trivedi has given his written consent in Form A to act as Resolution Professional, in the matter of Mr. Jitendra V Kikavat.

*(9) Having considered the submissions and upon perusing the above documents, this Bench is of the considered view that the present Company Petition is complete in all aspects as required by law and thus **hereby appoints Mr. Kairav Anil Trivedi**, having Insolvency Registration No. IBBI/IPA-002/IP-N00728/2018-2019/12332, **to act as the Resolution Professional** in the matter of Mr. Jitendra V Kikavat, as the name of the Insolvency Professional has been suggested by the Petitioner herein.*

- 2.34. The DC notes that in terms of Section 97 of the Code, an Insolvency Professional shall not be appointed as an IRP/RP if any disciplinary proceeding is pending against him. Accordingly, Mr. Kairav Anil Trivedi was under an obligation to disclose to the AA about his inability to take up assignment because of pending show cause notice dated 26.10.2023. However, Mr. Kairav Anil Trivedi chose not to disclose this material fact to the AA, thereby suppressing critical information that was required to be brought to the notice of the AA in compliance with the Code and the applicable regulations
- 2.35. The DC further notes that although Mr. Kairav Anil Trivedi might have submitted his consent for assignment prior to the issuance of his SCN (i.e. 26.10.2023) for initiating insolvency resolution process against personal guarantor Mr. Jitendra V Kikavat of CD Mahavir Roads and Infrastructure Pvt Ltd [C.P.(IB)/139/MB/2022], the AA order dated 25.01.2024 appointing Mr. Kairav Anil Trivedi as the RP in C.P.(IB)/139/MB/2022 was subsequent to the suspension of his AFA and further instead of apprising the AA about the suspension of his AFA, Mr. Kairav Anil Trivedi had chosen to suppress this fact during the course of hearing dated 25.01.2024, wherein he was personally present and was representing the FC.

- 2.36. The DC notes the submission of Mr. Kairav Anil Trivedi, wherein he placed reliance on Paragraph 14 of the Hon'ble Bombay High Court's order dated 09.08.2024 in Writ Petition (L) No. 13865 of 2024, which recorded IBBI's affidavit dated 08.07.2024 stating that pending assignments may continue despite suspension of AFA. The DC further notes that as against the contention of Mr. Kairav Anil Trivedi, the abovesaid position is in line with the stand taken by IBBI in its affidavit-in-reply dated 08.07.2024 filed before the Hon'ble High Court of Bombay in Writ Petition (L) No. 13865 of 2024, that "the suspension on account of the operation of Clause 23A of the bye-laws would not bar the petitioner from continuing with pending assignments but the same would only bar the petitioner from accepting new assignments pending disposal of the show cause notices." This position was acknowledged and accepted by the Hon'ble High Court in paragraph 14 of its order dated 09.08.2024.
- 2.37. The DC also notes that pursuant to the issuance of SCNs dated 26.10.2023 and 10.04.2024, disciplinary proceedings against Mr. Kairav Anil Trivedi were pending with effect from 26.10.2023 and 10.04.2024, respectively. The validity of both SCNs was challenged before the Hon'ble High Court of Bombay in Writ Petition (Lodging) No. 13865 of 2024, filed on 02.04.2024. However, no interim relief was granted in the said writ petition, and the matter was finally disposed of vide order dated 09.08.2024, whereby the Hon'ble Court upheld the validity of both SCNs. This clearly infers that the AFA of Mr. Kairav Anil Trivedi stood suspended in view of the disciplinary proceedings pending against him with effect from 26.10.2023. However, despite the pendency of such proceedings, Mr. Kairav Anil Trivedi did not disclose this material fact before the AA at the time of his appointment as RP on 25.01.2024.
- 2.38. Accordingly, the DC finds Mr. Kairav Anil Trivedi to be in contravention of Section 208 of the Code and Regulation 7A of IP Regulations read with Clause 1, 2, 12 and 14 of the Code of Conduct. The DC holds the contravention mentioned in the SCN.

3. **ORDER**

- 3.1. In view of the foregoing, the DC in exercise of the powers conferred under Section 220 of the Code read with Regulation 13 of the Inspection and Investigation Regulations and Regulation 11 of the IP Regulations hereby suspends the registration of Mr. Kairav Anil Trivedi (Registration No. IBBI/IPA-002/IP-N00728/2018-2019/12332) for a period of 2 years, which will run consecutive to any other suspension imposed and effected by any other DC order.
- 3.2. This Order shall come into force after expiry of 30 days from the date of its issuance.

- 3.3. A copy of this order shall be forwarded to the Insolvency Professional Agency of Institute of Company Secretaries of India where Mr. Kairav Anil Trivedi is enrolled as a member.
- 3.4. A copy of this order shall be sent to the CoC/ Stakeholders Consultation Committee (SCC) of all the Corporate Debtors in which Mr. Kairav Anil Trivedi is providing his services, if any, and the respective CoC/SCC, as the case may be, shall decide about continuation of existing assignment of Mr. Kairav Anil Trivedi.
- 3.5. 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.
- 3.6. Accordingly, the show cause notice is disposed of.

Dated: 15 July 2025
Place: New Delhi

Sd/-
(Sandip Garg)
Whole Time Member
Insolvency and Bankruptcy Board of India