

**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**  
**(Disciplinary Committee)**

No. IBBI/DC/290/2025

07 July 2025

**ORDER**

This Order disposes of the Show Cause Notice (SCN) COMP- 11012/35/2024- IBBI/904/842 dated 28.10.2024 issued to Mr. Surya Kanta Satapathy, who is an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with Registration No. IBBI/IPA-001/IP-P00598/2017-2018/11050 and a Professional Member of the Indian Institute of Insolvency Professionals of ICAI (IIIP-ICAI).

**1. Background.**

- 1.1 The Maa Durga Rice Products Private Limited (Corporate Debtor/CD) was admitted into the Corporate Insolvency Resolution Process (CIRP) *vide* order dated 04.09.2019 of the Adjudicating Authority, NCLT, Cuttack Bench (AA), on an application filed by the Bank of India, under Section 7 of Indian Bankruptcy Code, 2016 (Code), wherein Mr. Surya Kanta Satapathy was appointed as the Interim Resolution Professional (IRP) and later on was confirmed as the Resolution Professional (RP). The CD was admitted into Liquidation by the AA *vide* its order dated 26.04.2022 and Mr. Alok Kumar Aggarwal was appointed as the Liquidator.
- 1.2 The AA, while admitting the CD into the Liquidation, discharged Mr. Surya Kanta Satapathy and also made certain observations against him. Subsequently, the Board sought reply of Mr. Surya Kanta Satapathy on the said observations of the AA on 23.03.2024. The reply of Mr. Surya Kanta Satapathy was received on 22.07.2024.
- 1.3 After examining the reply received from Mr. Surya Kanta Satapathy, the Board formed a *prima facie* view that Mr. Surya Kanta Satapathy had contravened the provisions of the Code and the Regulations framed thereunder. Accordingly, the Board issued a SCN to Mr. Surya Kanta Satapathy on 28.10.2024. The SCN alleged contraventions of several provisions of the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations) and the Code of Conduct framed thereunder. Mr. Surya Kanta Satapathy submitted his reply to the SCN on 12.11.2024.
- 1.4 The SCN and its response by Mr. Surya Kanta Satapathy were referred to the Disciplinary Committee (DC) for disposal. Mr. Surya Kanta Satapathy availed an opportunity of a personal hearing before the DC through virtual mode on 24.03.2025. Post hearing, additional submissions / documents were made available by the RP Mr. Surya Kanta Satapathy.

**2. Alleged Contraventions, Submissions of Mr. Surya Kanta Satapathy, Analysis and Findings of the DC.**

The contraventions alleged in the SCN, submissions by Mr. Surya Kanta Satapathy, and the analysis and findings of the DC are summarized in the following paragraphs:

## **2.1 Filing of resolution plan of the director of the CD while avoidance application filed against him was *sub-judice*.**

- 2.1.1 During the CIRP, Mr. Surya Kanta Satapathy received resolution plan from only one resolution applicant, i.e., from Mrs. Lora Mitra Rath, the director of the suspended board of the CD. The revised resolution plan dated 11.11.2020 was put to vote in the 16<sup>th</sup> meeting of the Committee of Creditors (CoC) held on 17.11.2020. The same was approved by the CoC with 76.01% votes (which was constituted by Bank of India (76.01% share) and SREI Equipment Finance Limited (23.99% share). Mr. Surya Kanta Satapathy filed the Interlocutory Application (IA) no. 337/2020 before the AA for approval of the resolution plan on 11.12.2020. However, Mr. Surya Kanta Satapathy had determined certain avoidance transactions and had also filed an application IA 276/2020 on 09.11.2020 against the directors of the suspended board under Section 66 of the Code. One of these three directors of the suspended board of the CD was the Resolution Applicant, Mrs. Lora Mitra Rath. The AA *vide* its order dated 26.04.2022, while ordering the transactions to be fraudulent and undervalued in nature, directed the directors of the suspended board to refund Rs.20.22 crores.
- 2.1.2 The AA, in its Order dated 26.04.2022 observed that Mr. Surya Kanta Satapathy filed two simultaneous applications:- (a) one for avoidance of transactions against directors of the suspended board, and (b) other for approval of the resolution plan submitted by one of the directors of the suspended board. Mr. Surya Kanta Satapathy participated in both the proceedings at the same time, which led to an inconsistent approach, as supporting both applications concurrently was inappropriate. On one hand, Mr. Surya Kanta Satapathy filed the avoidance application against directors of the suspended board of the CD on 09.11.2020, while on the other hand, even after being aware of the fact that the said avoidance application was pending adjudication, he submitted the resolution plan before the AA on 11.12.2020, of one of the directors of the suspended board of the CD against whom the avoidance application had been filed.
- 2.1.3 Mr. Surya Kanta Satapathy submitted that Section 29A makes a person ineligible to submit a resolution plan if he has been a promoter or in the management or control of a CD in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the AA. Further, a person is not eligible to submit a resolution plan if he is ineligible under Section 29A of the Code on the date of submitting the plan. It cannot be denied to submit a plan if it was ineligible earlier or is likely to be ineligible in the future, but eligible on the date of submitting the resolution plan. In the present case, on the date of submission of final resolution plan on 11.11.2020, there was no finding by the AA in this regard, but before the approval of resolution plan, it was found that the resolution applicant was involved in undervalued and fraudulent transactions. Hence, the applicant became ineligible on 26.04.2022, as stated by the AA in its order, and not on 16.09.2020, when it submitted the resolution plan. In fact, by 16.09.2020, the application for avoidance transaction was not even filed, and the transaction audit which was the basis of finding avoidance transactions was not over. The application for avoidance transaction was filed only on 09.11.2020, and the AA disposed of the same only on 26.04.2022, making the applicant ineligible

on 26.04.2022. Being bound by law, Mr. Surya Kanta Satapathy could not have made the applicant ineligible almost two years before it became ineligible.

2.1.4 Section 29A(g) of the Code bars the promoter from becoming resolution applicant, if avoidance application against him has been filed and in respect of which an order has been made by the AA. It was observed that when Mr. Surya Kanta Satapathy filed the application for approval of the resolution plan of the director of the suspended board, before the AA on 11.12.2020, the application for avoidance of fraudulent transactions, *inter-alia*, against the same director of the suspended board, was *sub-judice*. As a matter of prudent practice, he should have refrained from taking an inconsistent stand by filing application for approval of resolution plan of the same director of the suspended board of the CD. Subsequently on 26.04.2022, the AA passed the final order in respect of the avoidance transactions and directed the directors (including the resolution applicant) to refund Rs.20.22 crore. By not considering the consequences of approval of avoidance transactions application, on the resolution plan application, beforehand, Mr. Surya Kanta Satapathy failed to act objectively and *prima facie* exhibited negligence in conduct of the process.

2.1.5 In view of the above, the Board held the *prima-facie* view that Mr. Surya Kanta Satapathy had contravened Regulation 7(2)(h) of the IP Regulations read with Clause 14 of the Code of Conduct as specified in the First Schedule of the IBBI (Insolvency Professional) Regulations, 2016 (IP Regulations).

## 2.2 Submissions by Mr. Surya Kanta Satapathy.

2.2.1 Mr. Surya Kanta Satapathy submitted the timeline of CIRP of the CD as follows:

Date	Development/ Activity
04.09.2019	CIRP commenced. IRP was appointed.
07.11.2019	IRP was confirmed as RP.
16.09.2020	Resolution Applicant (RA) submitted a resolution plan.
23.09.2020	Transaction Auditor submitted his report.
09.11.2020	RP applied for avoidance transactions, considering the Transaction Auditor's Report.
11.11.2020	RA revised the resolution plan on 22.09.2020, 04.10.2020, 07.10.2020, 20.10.2020, 21.10.2020, 07.11.2020 and finally on 11.11.2020.
12.11.2020	Resolution plan placed before the CoC.
17.11.2020	CoC considered the resolution plan.
21.11.2020	CoC approved the resolution plan
11.12.2020	RP applied for approval of the resolution plan.
26.04.2022	The AA allowed the application for avoidance transactions. It rejected the application for approval of the resolution plan, ordered liquidation of the CD, and appointed another IP as Liquidator.

2.2.2 Mr. Surya Kanta Satapathy submitted that the relevant dates may be noted as follows:

16.09.2020: The RA submitted the resolution plan.

09.11.2020: The RP applied for avoidance transactions, nearly two months after the submission of the resolution plan.

11.12.2020: The RP applied for approval of the resolution plan, more than a month after the avoidance transactions application.

2.2.3 Mr. Surya Kanta Satapathy referred to Section 29A of the Code as follows:

***“Persons not eligible to be resolution applicant.***

*29A. A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly or in concert with such person—*

*.....*

*(g) has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code: .....*”

He submitted that a plain reading of the above provision makes it clear that:

- a) A person is ineligible to submit a resolution plan if it does not meet the eligibility requirements at the time of submission of the resolution plan.
- b) Section 29A(g) imposes ineligibility based on conjunctive conditions: (1) the person has been a promoter or part of the management or control of a CD involved in a preferential, undervalued, extortionate credit, or fraudulent transaction, and (2) the AA has issued an order regarding such a transaction under the Code. Merely filing application before the AA with respect to the avoidance transactions do not render a person ineligible against whom avoidance application has been filed.
- c) It is essential to appreciate the rationale behind requiring an order from the AA. It is because the law prohibits a person disqualified under Section 29A(g) from submitting a resolution plan in any CIRP, not only in the CIRP of the CD where it served as a promoter. This necessitates a formal determination by the AA to enforce the disqualification across all CIRPs uniformly. If the prohibition were tied to an application filed by the RP in a specific CIRP, the person would remain eligible to participate in other CIRPs, undermining the purpose of Section 29A.

2.2.4 He further referred the judgements of the Hon’ble Supreme Court in *Arcelor Mittal India Private Limited vs. Satish Kumar Gupta and Others (2019) 2 SCC 1*, with respect to the ineligibility under Section 29A, which reads as under :

*“43. According to us, the opening words of Section 29A furnish a clue as to the time at which sub-clause (c) is to operate. The opening words of Section 29A state: “a person shall not be eligible to submit a resolution plan...”. It is clear therefore that the stage of ineligibility attaches when the resolution plan is submitted by a resolution applicant. The contrary view expressed by Shri Rohatgi is obviously incorrect, as the date of commencement of the corporate insolvency resolution process is only relevant for the purpose of calculating whether one year has lapsed from the date of classification of a person as a nonperforming asset. Further, the expression used is “has”, which as Dr. Singhvi has correctly argued, is in praesenti. This is to be contrasted with the expression “has been”, which is used in subclauses (d) and (g), which refers to an*

*anterior point of time. Consequently, the amendment of 2018 introducing the words “at the time of submission of the resolution plan” is clarificatory, as this was always the correct interpretation as to the point of time at which the disqualification in sub-clause (c) of Section 29A will attach.”*

Accordingly, the eligibility criteria must be met at the time the resolution plan is submitted, not at the commencement of CIRP. The phrase ‘has been’ in Section 29A(g) denotes an action/ state that began at an earlier time and continues up to the present; it does not imply a subsequent action that would retroactively impact eligibility. Thus, a person who meets the eligibility requirements on the date of submission cannot be disqualified for potential future ineligibility. Similarly, a resolution plan submitted by an eligible person cannot be withheld pending a possible adverse finding.

2.2.5 He submitted that the NCLAT recently addressed a case where the resolution plan was submitted and was considered by the CoC, when proceedings to declare the RA as a wilful defaulter were underway. The CIRP of LB Industries Pvt. Ltd. commenced on 19.11.2019. In its 7<sup>th</sup> meeting on 03.10.2020, the CoC rejected the promoters' resolution plan, citing the Union Bank's classification of the promoters as wilful defaulter. Later, on 25.05.2021, the Union Bank formally declared the promoters as wilful defaulter, following a show-cause notice that was issued on 13.01.2019, that is, before the commencement of CIRP. The AA upheld the CoC's decision to declare the RA ineligible to submit the resolution plan. On appeal, the NCLAT, in its Order dated 25.05.2023 in *Mr. Jaidev Laxmidas Panchmatia Vs. Mr. Fanendra H Munot (2023 ibclaw.in 341 NCLAT)*, ruled as under:

*“14. In view of the foregoing discussion and conclusion, we dispose of this Appeal in following manner:-*

*a. The order of the Adjudicating Authority dated 20th January, 2022 upholding the decision of CoC declaring the Appellant as ineligible to submit a Resolution Plan under Section 29A is set aside. It is held that Appellant was eligible to submit a plan on the date of its submission as well as on the date it came up for consideration.”*

Thus, an ongoing proceeding that has the potential to make an RA ineligible under Section 29A of the Code does not render it ineligible until that proceeding concludes with a determination of ineligibility.

2.2.6 The AA has consistently aligned its views with the legislative intent and its application, as demonstrated by the Hon'ble Supreme Court and the NCLAT. In a recent case, the AA addressed a scenario where the RA became ineligible after submitting the resolution plan but before submitting a fresh resolution plan. In *Bank of India Vs. Mr. Vishal Ghisulal Jain and Others (I.A. 828 of 2023 in C.P. (IB) No. 2946 of 2019)*, decided on 20.03.2024, the AA held that:

*“36. After having appreciated the arguments advance by the Ld. Counsel for the RA and having gone through the documents submitted, it is evident that though the Resolution Plan was submitted on 21.01.2021. This plan was never put up before CoC for consideration not ever opened/discussed or voted upon. The plan put up before CoC was a fresh Plan submitted by Respondent No 6 on 11.11.2022. It cannot by any stretch of imagination be stated to be a negotiated or revised Resolution Plan as the earlier plan was never considered at all. Since it*

*was a fresh plan submitted on 11.11.2022 the eligibility of the SRA /Respondent No. 6 under Section 29A of IBC was required to be seen on the date of submission of Plan i.e. 11.11.2022. The fact is on 11.11.2022 the RA /Respondent no. 6 was ineligible under Section 29A of IBC to submit the Resolution Plan as he was declared a wilful defaulter on 30.10.2022. Thus the said plan submitted by the SRA could not be approved by the CoC.”*

This ruling clarifies that what is material is the eligibility of the RA on the date of the submission of the relevant resolution plan. It is irrelevant whether it was eligible at the time of submitting the first resolution plan or revised resolution plan; what matters is its eligibility at the time of the submission of the specific plan under consideration.

2.2.7 He submitted that the SCN suggests halting CIRP till the disposal of the application relating to avoidance transactions. Section 26 of the Code is clear on this:

*“Application for avoidance of transactions not to affect proceedings.*

*26. The filing of an avoidance application under clause (j) of sub-section (2) of section 25 by the resolution professional shall not affect the proceedings of the corporate insolvency resolution process.”*

Thus, a CIRP shall proceed uninterrupted, regardless of whether an application for avoidance transactions has been filed. This underscores the importance of maintaining the resolution process and ensuring that it remains on track to meet its objectives, without being hindered by parallel proceedings related to avoidance transactions.

2.2.8 Mr. Surya Kanta Satapathy further submitted that:

- a. The eligibility of a RA needs to be seen on the date of submitting the relevant resolution plan, not on the date of commencement of CIRP, and not even on the date of approval of the resolution plan by the CoC.
- b. A person cannot be held ineligible to be a RA solely because an ongoing proceeding has the potential or is likely to make it ineligible under Section 29A of the Code.
- c. Ineligibility under Section 29A(g) necessitates a determination by the AA to enforce the disqualification uniformly across CIRPs. If it is based on the opinion of an RP, the disqualification shall apply only to the CIRP where the person is a promoter, while it would be unfairly penalised in 97% of cases.
- d. Disqualification under Section 29A(g) requires a determination by the AA at an earlier point in time and such determination continues up to the present;
- e. Filing of an application for avoidance transaction does not suspend the CIRP.

2.2.9 An exactly similar contemporary matter is the CIRP of Web Teck Packaging (India) Private Limited. The timeline of the CIRP has been as under:

<b>Date</b>	<b>Development/Activity</b>
25.07.2019	CIRP commenced
22.09.2020	Forensic audit report received
13.10.2020	CoC approved the resolution plan, subject to certain changes

18.11.2020	CoC approved the resolution plan that incorporated the changes
04.12.2020	RP filed an application for avoidance transactions
29.12.2020	RP filed an application for approval of the resolution plan
12.11.2021	AA allowed the application for avoidance transactions
02.08.2023	AA rejected the application for approval of the resolution plan and appointed the RP as Liquidator
10.10.2023	Appellate Tribunal dismissed appeals against both the orders of the AA
25.01.2024	Supreme Court dismissed the appeal.

In its judgment dated 10.10.2023 in *Mr. Sunil Tangri & Anr. Vs. Mrs. Ashu Gupta, RP, Web Tec Packaging (CA(AT) (Insolvency) No. 1070 of 2021 & CA(AT) (Insolvency) No. 1121 of 2023)*, the Appellate Tribunal dismissed the appeals. Subsequently, on 25.01.2024, the Hon'ble Supreme Court dismissed a further appeal in *Sunil Tangri & Anr. Vs. Ashu Gupta (CA Nos. 2024, Diary No 50609 of 2023)*.

2.2.10 The following table presents the filing and processing of applications for avoidance transactions and approval of resolution plans in the CIRPs of the CD and Web Teck Packagings (India) Private Limited. In both cases, the applications for approval of resolution plans were filed after the applications for avoidance transactions. The AA allowed the avoidance applications but rejected the applications for approval of resolution plans in each case. The orders regarding Web Teck Packaging (India) Private Limited have been affirmed by the Hon'ble Supreme Court and RP was not found wanting in any respect. Notably, while the RP was appointed as Liquidator for Web Teck Packagings (India) Private Limited, a different IP was appointed as Liquidator for CD, and the RP has since received this show cause notice (SCN).

Activity	CIRP of CD	CIRP of Web Teck Packagings (India) Private Limited
Audit Report forming the basis of avoidance transaction received	23.09.2020	22.09.2020
RP applied for avoidance transactions, considering the Transaction Auditor's report	09.11.2020	04.12.2020
CoC approved the resolution plan	21.11.2020	18.11.2020
RP applied for approval of the resolution plan	11.12.2020	29.12.2020
AA allowed the application for avoidance transactions.	26.04.2022	12.11.2021
AA rejected the application for approval of the resolution plan and ordered liquidation of the CD	26.04.2020	02.08.2023

2.2.11 He submitted that at the material time, that is, (the date of submission of the resolution plan, the dates of revisions of the plan, the date of approval of the resolution plan by the CoC, and the date of filing of the application for approval of the resolution plan), the RA did not suffer from

any disqualification under Section 29A. The RA became ineligible only on 26.04.2022, and not at the time of submitting the resolution plan on 16.09.2020. In fact, by 16.09.2020, the application for avoidance transaction was not even filed, and the transaction audit which was the basis of finding avoidance transactions, was still ongoing. The application for avoidance transaction was filed only on 09.11.2020, and the AA disposed of the same only on 22.04.2022, rendering the RA ineligible on 22.04.2022.

2.2.12 The AA, while rejecting the application for resolution plans, has confirmed this: there was no finding about the eligibility of the RA under Section 29A(g) of the Code as of the date of the resolution plan. Para 8 of the AA's Order dated 26.04.2022 reads: "*As per section 29A(g) of IBC 2016 the person against whom the Adjudicating Authority passed an order holding that he/she as a promoter or in management control of a corporate debtor indulged in undervalued transaction and fraudulent transaction is not eligible to submit a resolution plan. Of course, on the date of submission of final resolution plan on 11.11.2020 there was no finding by the Adjudicating Authority in this regard, but before the approval of resolution plan it is found that the resolution applicant involved in undervalued and fraudulent transactions, so the proviso to section 29A(g) also does not rescue the resolution applicant from her ineligibility*".

2.2.13 In the CIRP of Maa Durga Flour Mills Pvt. Ltd., the CoC approved the resolution plan on 25.11.2020 and the AA approved the same plan on 01.11.2021. Notably, the RA in this CIRP was the same person, i.e. Mrs. Lora Mitra Rath, against whom he had applied for avoidance transactions on 09.11.2020, in the CIRP of M/s Maa Durga Rice Products Private Ltd.. Since his application did not/ could not have any bearing on other CIRPs, the resolution plan was approved. This underscores the necessity for determination by the AA under Section 29A(g).

2.2.14 Mr. Surya Kanta Satapathy further submitted that Section 29A(g) provides a singular mechanism for determining someone's ineligibility as an RA, namely, a formal determination by the AA. He could not have overstepped the authority of the AA by rendering someone ineligible before such a determination. Disqualification under Section 29A(g) requires a determination by the AA at an earlier point in time and such determination continues up to the present, that is the date of submission of the relevant resolution plan. He did not foresee an ineligibility that might arise two years later and then apply that ineligibility retrospectively.

2.2.15 He submitted that the AA in its order dated 01.11.2021 in the CIRP of Maa Durga Flour Mills Pvt. Ltd., confirmed his understanding that the RA was eligible on the date of submitting the resolution plan as well as on the date of approval of the resolution plan by the CoC. He could not have withheld the application for approval of the resolution plan of an eligible RA solely because an ongoing proceeding has the potential or is likely to make it ineligible under Section 29A of the Code. The resolution plan of the RA was approved by the CoC and the AA in the CIRP of Maa Durga Flour Mills Pvt. Ltd., when the application for avoidance transactions against the RA, i.e. Mr. Lora Mitra Rath was pending in the CIRP of M/s Maa Durga Rice Products Private Ltd. The filing of an application for an avoidance transaction does not suspend the CIRP. He could not have allowed the CIRP to be impeded solely because an application for avoidance transaction has been filed or is pending before the AA. He waited over a month for the disposal of the application for avoidance transactions. He could not have held up the

resolution plan and prolonged CIRP indefinitely eroding the value of the CD. If the application for avoidance transactions had ultimately not been upheld, it might have been too late to revive the CD.

2.2.16 Mr. Surya Kanta Satapathy submitted that he carefully considered the potential consequences arising from the disposal of the application for avoidance transactions on the application for approval of the resolution plan. There are four possible outcomes as presented in the table below this para. The CD will face liquidation if the application for avoidance transaction is not upheld, in the absence of the application for approval of the resolution plan. This prudence guided me to file both applications.

If the application for Avoidance Transactions	If the application for Approval of Resolution Plan	
	Filed	Not filed
Upheld (which happens in 3% of cases)	The CD goes into liquidation, as happened in the case of Web Tec Packagings (India) Private Limited.	The CD goes into liquidation.
Rejected (which happens in 97% of the cases)	The CD will be rescued.	The CD goes into liquidation.

2.2.17 Mr. Surya Kanta Satapathy submitted that he had informed the CoC while considering and approving the resolution plan, and notified the AA in his application seeking approval of the resolution plan, that he had filed an application for avoidance transaction against the RA. He considered this transparency crucial in maintaining the integrity of the process and enabling the parties and authorities to make informed decisions. It was not a case where another RA was overlooked while processing the resolution plan submitted by this RA. The outcome would remain unchanged regardless of whether the application for avoidance transactions is upheld or not.

### 2.3 Analysis and Findings of the DC.

2.3.1 The DC notes that Section 29A provides for the eligibility of prospective resolution applicants. Clause (g) of Section 29A provides that a person shall not be eligible to submit a resolution plan, if he has been a promoter or in the management or control of a corporate debtor in which any avoidance transaction has taken place and in respect of which an order has been made by the AA. The DC also notes that the Hon'ble Supreme Court in matter of *Arcelor Mittal India Private Limited vs. Satish Kumar Gupta and Others (2019) 2 SCC* has held that the eligibility of a resolution applicant has to be seen on the date of submission of the resolution plan.

2.3.2 In the facts of the present case, however, on the date of submission of resolution plan, i.e., 11.11.2020, the avoidance applications filed on 09.11.2020 by the RP Mr. Surya Kanta Satapathy against the directors of the suspended board of the CD was *sub-judice*, but the said fact that an avoidance application has been filed by Mr. Surya Kanta Satapathy against the directors of the

suspended board, and one of such directors was also resolution applicant, was not disclosed and discussed with the CoC. The minutes of the 16<sup>th</sup> CoC meeting held on 17.11.2020, i.e. after filing of avoidance application, did not mention any disclosure and discussion regarding the avoidance application filed by Mr. Surya Kanta Satapathy against the directors of the suspended board and that one of such directors, has submitted the resolution plan. As a matter of prudence and in order to maintain transparency, the RP should have disclosed the complete facts to the CoC and the discussion of the CoC in this regard should have been mentioned adequately in the minutes of the CoC meeting. The minutes of the 16<sup>th</sup> CoC meeting does not mention any such disclosure by Mr. Surya Kanta Satapathy and any discussion by the CoC in this regard.

2.3.3 The DC further notes that in the application filed for approval of the resolution plan, Mr. Surya Kanta Satapathy did not mention anything about the fact that the resolution applicant whose resolution plan has been approved by the CoC was submitted by one of the directors of the suspended board and that an avoidance application has been filed by the RP Mr. Surya Kanta Satapathy against such director which was pending before the AA. The disclosure made in Clause 15 of the Form H, submitted with the application for approval of the resolution plan, was limited to the extent of amount and nature of avoidance application. It is observed that the avoidance transaction was determined by the RP and avoidance application was filed by the same RP, namely Mr. Surya Kanta Satapathy before the resolution plan was placed before the CoC for approval. Notwithstanding the fact that the resolution applicant was one of the directors of the suspended board against whom avoidance application had been filed by the same RP, i.e., Mr. Surya Kanta Satapathy before the AA, this relevant fact was conspicuous by its absence in the discussions/ submissions made either to the CoC or to the AA, while seeking approval of the resolution plan.

2.3.4 Mr. Surya Kanta Satapathy submitted that the AA in its order dated 01.11.2021 in the CIRP of Maa Durga Flour Mills Pvt. Ltd., confirmed his understanding that the RA was eligible on the date of submitting the resolution plan as well as on the date of approval of the resolution plan by the CoC. But Mr. Surya Kanta Satapathy did not mention the subsequent order of the AA dated 28.02.2024, in the same case wherein the AA observed the following -:

*“The counsel referred to the opening sentences of Section 29(A) of the Code "A person shall not be eligible to submit a resolution plan" and stated that eligibility prescribed by the code is only for the submission of Resolution plan, there after it is immaterial whether applicant continues with eligibility or suffered any ineligibility. This contention is not acceptable because the eligibility criteria prescribed under the code is primarily to avoid the person indulged in fraudulent activities and cause for the downfall of the corporate debtor, to take advantage of his own wrong and enter into the corporate debtor on back door method. In this situation the argument of the counsel for applicant that section 29(A)(g) of IBC, 2016 is to be seen only at the time of submission of plan and not thereafter is misplaced. Once the provision of law provides a bar for a promoter to file a plan in the circumstances stated in Section 29(A)(g), the same will apply for all the times to come and not only at the time of submissions only.”*

Thus, reliance by Mr. Surya Kanta Satapathy on this case is misplaced.

2.3.5 Lack of such disclosure by Mr. Surya Kanta Satapathy reflects negligent, non-transparent and inconsistent approach in performing his duties with regards to seeking approval of resolution plan of a director of the suspended board, against whom, Mr. Surya Kanta Satapathy had himself filed avoidance application which was pending before the AA and therefore, the DC holds the contravention.

### **3. Order.**

- 3.1. In view of the foregoing discussion, the DC finds that Mr. Surya Kanta Satapathy failed to disclose the crucial fact that the resolution plan was submitted by a director of the suspended board, against whom he himself had filed an avoidance application which was pending before the AA. This constitutes a failure on his part to perform his duties under the Code and the Regulations made thereunder.
- 3.2. 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 the registration of Mr. Surya Kanta Satapathy (Registration No. IBBI/IPA-001/IP-P00598/2017-2018/11050) for a period of one year.
- 3.3. This Order shall come into force after expiry of 30 days from the date of its issuance.
- 3.4. A copy of this order shall be sent to the CoC/Stake Holders Consultation Committee (SCC) of all the corporate debtors in which Mr. Surya Kanta Satapathy is providing his services, and the respective CoC/SCC, as the case may be, will decide about continuation of existing assignment of Mr. Surya Kanta Satapathy.
- 3.5. A copy of this order shall be forwarded to the Indian Institute of Insolvency Professionals of ICAI where Mr. Surya Kanta Satapathy is enrolled as a member.
- 3.6. 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.
- 3.7. Accordingly, the show cause notice is disposed of.

Date: 07 July 2025  
Place: New Delhi

-sd/-  
**(Jayanti Prasad)**  
Whole Time Member  
Insolvency and Bankruptcy Board of India