NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, COURT-I, CHANDIGARH

I.A. No.1378 of 2024
In
CP(IB) No. 98/Chd/Hry/2022
(Admitted)

[Application Under Section 19(2) of the Insolvency and Bankruptcy Code, 2016]

I.A. No.1378 of 2024:

1. Rahul Jindal,
Resolution Professional of Samar Estates Private Limited
IBBI/IPA-001/1P-P-02649/2021-2022/14048
109, Surya Kiran Building, KG Marg, New Delhi-110001
Email ID: cirp.samarestates@gmail.com

...Applicant

Versus

1. Virender Bagai
Suspended Director of M/s Samar Estates Private Limited Resident of House No.87, Sector-7, Panchkula-134109
Email ID: bagaivinod.svg@gmail.com

...Respondent No. 1

2. Vinod Bagai
Suspended Director of Samar Estates Private Limited
Resident of House No.87, Sector-7, Panchkula-134109
Email ID: bagaivinod.svg@gmail.com

...Respondent No. 2

3. Shri Sukhen Pal Babuta
Statutory Auditor of Samar Estates Private Limited
Resident of House No.240, Sector-21-A, Chandigarh-160022 Email ID: spbabuta@hotmail.com

...Respondent No. 3

<u>IN THE MAIN MATTER OF CP (IB) No. 98/Chd/Hry/2022 (Admitted):</u>

Punjab and Sind Bank

...Financial Creditor

Versus

Samar Estates Private Limited

...Corporate Debtor

Present:

For the Applicant/ Resolution Professional	:	Mr. Aalok Jagga, Advocate Mr. Sahil, Lohan, Advocate Mr. APS Madaan, Advocate
For Respondent		Mr. Atul V Sood, Advocate

Order delivered on: 13.08.2026

<u>Coram</u>: **SH. KHETRABASI BISWAL, HON'BLE MEMBER (JUDICIAL)**
SH. SHISHIR AGARWAL, HON'BLE MEMBER (TECHNICAL)

ORDER

This instant Application has been filed by Mr. Rahul Jindal, the Resolution Professional ("RP"/"Applicant") of the Corporate Debtor, M/s Samar Estates Private Limited, under Section 19(2) read with Section 19(3) of the Insolvency and Bankruptcy Code, 2016 ("Code") for, inter-alia, seeking directions against Mr. Virender Bagai (Respondent No. 1) and Mr. Vinod Bagai (Respondent No. 2), the suspended directors of the Corporate Debtor, and Shri Sukhen Pal Babuta (Respondent No. 3), the erstwhile Statutory Auditor of the

Corporate Debtor, to extend cooperation and to hand over information, documents, records and assets of the Corporate Debtor.

BRIEF FACTS

2. Brief Facts of the case, as stated by the Applicant, are summarised as follows:

    (i) The Corporate Insolvency Resolution Process ("CIRP") of the Corporate Debtor was initiated pursuant to admission of a Section 7 application filed by Punjab and Sind Bank vide order of this Tribunal dated 12.01.2024, whereby the Applicant was appointed as the Interim Resolution Professional ("IRP"), and was thereafter confirmed as the Resolution Professional pursuant to the resolution passed in the first meeting of the Committee of Creditors ("CoC") held on 09.02.2024.

    (ii) The intimation of commencement of CIRP, along with a request for information/documents, was communicated to Respondents No. 1 and 2 vide e-mail dated 15.01.2024 (Annexure-1), and a similar intimation was sent to Respondent No. 3 vide e-mail dated 23.01.2024 (Annexure-5). On 16.01.2024, the Applicant, along with his team, visited the project site/registered office of the Corporate Debtor to take physical possession, which was handed over, though after seeking the assistance of the local police, and that a third party, M/s SVSJ Developers Private Limited, was found in occupation of part of the premises without any supporting documentation.

(iii) That despite repeated reminders, e-mails dated 05.02.2024, 08.02.2024, 12.02.2024 and 23.02.2024 to Respondents No. 1 and 2 (Annexures 2 and 3), and reminders dated 14.03.2024, 21.03.2024, 27.03.2024, 28.03.2024 and 29.03.2024 (Annexure-4) addressed to Respondents No. 1 and 2, as well as the e-mail dated 14.03.2024 addressed to Respondent No. 3 (Annexure-6) — the requisite information/documents have not been furnished in a comprehensive manner, though certain documents have been furnished from time to time.

(iv) The Applicant has tabulated, at paragraph 11 of the Application, the information said to remain outstanding from Respondents No. 1 and 2, including inter alia audited financial statements for FY 2019-20 to 2022-23 and the provisional statement up to 12.01.2024, access to the Corporate Debtor's e-mail ID, property papers, the Fixed Asset Register, the sanctioned area plan, permissions relating to installation of lifts, any Joint Development Agreement, the list of employees, login credentials for GST/ROC, year-wise miscellaneous records, handover of certain fixed assets (as tabulated), and documents relating to "Land II" and "Land IV". Similarly, at paragraph 12, information said to be outstanding from Respondent No. 3 has been tabulated, including bank account details since inception, complete details of assets with invoices, the vehicle list, statutory record files, creditor/debtor details, and clarification regarding the Membership Deposit Control Account, amounts said to be due from M/s SRV and Mr. Niranjan Singh, and an account styled "cheque deposited but not credited by bank".

(v) The Applicant prays that the Respondents be directed to extend cooperation and to hand over the requisite data/information/records/documents and assets, and that appropriate orders be passed in the event of non-compliance or delayed compliance with Section 19 of the Code.

REPLY

3. Reply on Behalf of Respondents No. 1 and 2 is summarised hereunder:

(i) Respondents No. 1 and 2 have filed a short reply denying that there has been any wilful or contumacious non-cooperation on their part, and have submitted that they have, at all material times, extended cooperation to the Applicant in terms of Section 19(1) of the Code.

(ii) The Respondents state that the audited financial statements for FY 2019-20 to 2022-23, along with the provisional financial statement up to 12.01.2024, are already on record as Annexure R-1 (Colly.). The list of employees, sanctioned area plan, GST and ROC login credentials, and files relating to OTIS and KONE lifts have also been furnished. The mobile number linked with the Income Tax portal belongs to the Chartered

Accountant/Respondent No. 3 or his office and is stated to be beyond their control.

(iii) The e-mail ID mail@essveegroup.com belongs to the wider "Ess Vee Group" and is not exclusive to the Corporate Debtor. Nevertheless, credentials of a separate corporate e-mail ID relating to the Corporate Debtor have been furnished. Physical possession of the project site and registered office, along with the records available therein, was handed over to the Applicant on 16.01.2024.

(iv) The original title deeds are not in the Respondents' possession, as the land is mortgaged with the Financial Creditor, though photocopies have already been supplied. The available Fixed Asset Register and related records were handed over with the office premises, while the fixed assets at the project site are now in the Applicant's custody on an as-is-where-is basis.

(v) No Joint Development Agreement exists for Pocket-A measuring 14.95 acres. The agreements relating to Pocket-B measuring 7.182 acres and concerning Parsvnath Developers Limited have already been furnished. The transactions relating to "Land II" and "Land IV" are stated to be prior to 2009; those lands were subsequently acquired by the Government, and the relevant historical records are not in the personal custody of the Respondents.

(vi) Respondents No. 1 and 2 have also placed reliance on pendency of other proceedings between the parties, namely I.A. No. 2048 of 2024 and I.A. No. 1064 of 2025, in which certain issues concerning the conduct of the CIRP have been raised. This Tribunal notes that the said proceedings are independent and pending adjudication on their own merits, and no finding is being rendered thereon in the present order; the pendency thereof does not, by itself, have a bearing on the disposal of the present application, which is confined to the question of cooperation under Section 19 of the Code.

(vii) In support of the above, Respondents No. 1 and 2 have placed on record Annexure R-1 (audited financial statements) and Annexure R-2 (Colly.) (correspondence exchanged with the Applicant), and have prayed that the application, being devoid of merit, be dismissed.

MAINTAINABILITY NOTE BY RESPONDENT NO. 3

4. Maintainability objections of Respondent No. 3 are summarised as follows:

(i) Respondent No. 3 has filed a separate note on non-maintainability, submitting that no application under Section 19(2) of the Code can be maintained against a Statutory Auditor of a Corporate Debtor, relying upon the judgment of the Hon'ble NCLAT, Principal Bench, New Delhi, in Sh. Sanjeev Kumar Arora v. Deepak Thukral and Ors., Company Appeal (AT)

(Ins) No. 1407 of 2022, decided on 11.05.2026, reported at (2026) ibclaw.in 641 NCLAT.

(ii) It is submitted, drawing upon paragraphs 9.3 to 9.5 and 10 of the said judgment, that Section 19(1) of the Code obliges only ***"the personnel of the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor" to extend cooperation, and that a Statutory Auditor, being an independent professional whose function is to "hold a mirror" to the financial affairs of a company for the benefit of its stakeholders, cannot, by the nature of that role, be said to be "associated with the management" of the Corporate Debtor.*** It is further submitted, relying on the same judgment, that any direction to furnish information presupposes that the information sought is shown to be in the actual custody of, or accessible to, the person from whom it is sought, since "no person can part with something that he does not possess."

(iii) On facts, Respondent No. 3 submits that he responded to the Applicant's communications, including those dated 23.01.2024 and 14.03.2024, and furnished such working papers and information as were available with him, while categorically stating including in his response dated 16.03.2024 on record that records such as the bank statements, the Fixed Asset Register, the vehicle register, and statutory files were not in his possession but remained with the Corporate Debtor/its Directors. It is submitted that no material has been placed on record by the Applicant to establish that any specific document or information, shown to be in the possession of Respondent No. 3, has been withheld.

ANALYSIS AND FINDINGS

5. We have heard the learned counsels for the parties and perused the material available on the record carefully.
6. Section 19(1) of the Code casts an obligation of cooperation on the personnel of the Corporate Debtor, its promoters, and persons associated with its management, for the purpose of enabling the Interim Resolution Professional/Resolution Professional to manage the affairs of the Corporate Debtor as a going concern and to protect its assets. As suspended directors, Respondents No. 1 and 2 fall squarely within this description, and the obligation of cooperation, including furnishing of information and records within their knowledge or custody, subsists notwithstanding suspension of their powers of management under Section 17 of the Code.
7. It is not in dispute that Respondents No. 1 and 2 have furnished certain material, including the audited financial statements (Annexure R-1) and a body of correspondence (Annexure R-2), and it does appear from the record that compliance, though not entirely absent, has been rendered in a piecemeal and staggered manner over an extended period, necessitating repeated reminders by the Applicant. We note

that vide our earlier Order dated 02.06.2026, Respondents No. 1 and 2 were already directed to furnish the pending documents/information to the Resolution Professional, and the present findings are consequently in continuation of, and in reaffirmation of, the said directions. To the extent any information or document sought by the Applicant, and reasonably within the knowledge, access, or custody of Respondents No. 1 and 2, remains outstanding, the obligation under Section 19(1) continues to bind them, an obligation already crystallised by the order dated 02.06.2026 and no case is made out for absolving them of that continuing obligation.

8. Applying the ratio of ***Sh. Sanjeev Kumar Arora v. Deepak Thukral and Ors., Company Appeal (AT) (Ins) No. 1407 of 2022,*** *decided on 11.05.2026, reported at (2026) ibclaw.in 641 NCLAT*, the obligation under Section 19(1) is one that attaches to persons associated with the management of the Corporate Debtor prior to its admission into CIRP. A Statutory Auditor discharges an independent professional function distinct from that of the management, and does not, merely by virtue of having audited the accounts of the Corporate Debtor, become a person "associated with the management" for the purposes of Section 19(1). Further, as held in the said judgment, a direction to furnish information or documents cannot be issued unless it is shown that such information or documents are, in fact, in the custody of, or accessible to, the person concerned. On the material placed before

this Tribunal, Respondent No. 3 has furnished such papers as he holds and has stated, without any specific material to the contrary having been placed by the Applicant, that the primary records of the Corporate Debtor were not in his custody. In these circumstances, and in view of the binding precedent noted above, the application under Section 19(2) is not maintainable against Respondent No. 3.

CONCLUSION

9. In view of the foregoing analysis, we hereby direct that:

   (i) The Application is allowed in part as against Respondents No. 1 and 2, in continuation of the directions already issued vide order dated 02.06.2026. Respondents No. 1 and 2 shall extend complete cooperation to the Applicant and to furnish/hand over forthwith any information, documents, records and assets of the Corporate Debtor that remain outstanding as on date, in compliance with the said earlier Order.

   (ii) The Application is dismissed as against Respondent No. 3, being not maintainable.

10. This Order is subject to any order to be passed by the Hon'ble NCLAT in pending Company Appeal (AT) (Insolvency) No. 830 of 2026 filed by SRV Investments.

11. Accordingly, **I.A. No. 1378/2024** is **disposed of**.

SD/- SD/-

(SHISHIR AGARWAL)
MEMBER (TECHNICAL)

(KHETRABASI BISWAL)
MEMBER (JUDICIAL)

Yuvraj