

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
(Disciplinary Committee)

No. IBBI/DC/262/2025

17th January 2025

ORDER

This Order disposes of the Show Cause Notice (SCN) No. COMP-11012/76/2024-IBBI/897/791 dated 08.08.2024, issued to Mr. Ramkripal Sharma, who is a Professional Member of the ICSI Institute of Insolvency Professionals and an Insolvency Professional registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with Registration No. IBBI/IPA-002/IP-No 1126/2021-2022/13669.

1. Background

- 1.1 The National Company Law Tribunal, New Delhi Bench-V (AA) had admitted the application filed under Section 9 of the Code filed by M/S Natraj Transport, Operational Creditor (OC) for initiating corporate insolvency resolution process (CIRP) of TRN Energy Private Limited (CD) *vide* order dated 07.12.2021 and appointed Mr. Ramkripal Sharma as Interim Resolution Professional (IRP). The AA *vide* order dated 22.12.2021 approved withdrawal of CIRP on account of settlement between the applicant OC and CD. Thereafter, OC filed an application seeking revival of CIRP on grounds of failure on part of the CD to abide by the terms of the settlement. The AA revived the CIRP *vide* order dated 30.11.2022 and Mr. Ramkripal Sharma was again appointed as IRP. The parties again reached settlement and accordingly application was filed under Section 12A of the Code before the AA. The AA allowed the application and ordered withdrawal of CIRP *vide* order dated 22.12.2022.
- 1.2 The Canara Bank, one of the Financial Creditor (FC) filed an application for revival of CIRP which was disposed on 07.02.2023 issuing caution to Mr. Ramkripal Sharma exercising his functions and discharging the duties as IRP. The Canara Bank challenged the order of the AA dated 07.02.2023 before the NCLAT. The NCLAT while allowing the appeal and also made certain observations regarding IRP Mr. Ramkripal Sharma. In exercise of its powers conferred under Section 218 of the Code read with Regulation 7(1) and 7(2) of the IBBI (Inspection and Investigation) Regulations, 2017 (Inspection and Investigation Regulations), the Board appointed an Investigating Authority (IA) to conduct investigation in connection with observations of the AA and the NCLAT.
- 1.3 The IA served the notice of investigation dated 03.07.2024 as per Regulation 8(1) of the IBBI (Inspection and Investigation) Regulations, 2017 (Investigation Regulations) to Mr. Ramkripal Sharma and in response thereof, Mr. Ramkripal Sharma submitted its reply in the matter on 12.07.2024.
- 1.4 Subsequently, based on the findings of the investigation as mentioned in the Investigation Report submitted by the IA, the IBBI formed a *prima facie* view and issued the SCN to Mr.

Ramkripal Sharma on 08.10.2024. The SCN alleged contraventions of several provisions of the Code, and the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations). The reply of Mr. Ramkripal Sharma on the SCN was received by the Board on 23.10.2024.

1.5 The SCN and response of Mr. Ramkripal Sharma to the SCN were referred to the Disciplinary Committee (DC) for disposal of the SCN. Mr. Ramkripal Sharma availed an opportunity of personal hearing before the DC through virtual mode on 02.01.2025. He further made additional submissions on 07.01.2025 before the DC.

2. Alleged contravention, submissions of Mr. Ramkripal Sharma and findings of the DC.

2.1 It has been observed that after the initiation of CIRP of CD vide AA order dated 30.11.2022, the IRP (Mr. Ramkripal Sharma) invited the claims from creditors on 13.12.2022 and the last date for submission of claims was 23.12.2022. In the meanwhile, a settlement agreement dated 19.12.2022 between the applicant OC and the suspended management of the CD was signed. In terms of Regulation 30A (3) of IBBI (Insolvency Resolution for Corporate Persons) Regulations, 2016 (CIRP Regulations), Mr. Ramkripal Sharma filed a withdrawal application before AA on 20.12.2022 and the AA allowed the said application *vide* order dated 22.12.2022.

2.2 It was observed from reply of Mr. Ramkripal Sharma to IA that Canara Bank had filed its claims as Financial Creditor (FC) on 21.12.2022, i.e. before the last date for submission of claim which was 23.12.2022. It is, however, noted from the AA order dated 22.12.2022 approving the settlement agreement that he did not bring this material information to the notice of the AA. It is observed that the AA, while approving the withdrawal of CIRP *vide* order dated 22.12.2022 made following observations:

“...this Tribunal allows the present application as the Resolution Professional has confirmed that no CoC is formed till date and no claim has been received from any claimant and also no claim is outstanding. However, since the last date of filing the claim is 23.12.2022, in case, if the RP receives any claim he should pass on the same to the CD to enable the CD to make good of such claim.

Since time granted in paper publication inviting the public claim is upto 23.12.2022, the IRP will be relieved from his duties and responsibilities on the close of the business hours on 23.12.2022.”

2.3 It was noted that even after having received the claim of Canara Bank on 21.12.2022, the same was not brought to the notice of the AA. Rather, a misleading statement was made before the AA on 22.12.2022 that no claim had been received from any claimant and no claim was outstanding, as noted in the AA's order. In his reply to the IA, Mr. Ramkripal Sharma has attempted to blame his counsel for the misleading statement. However, the fact that he did not make any effort thereafter to correct the mistake by rectifying the factually incorrect statement, attributed to him, in the said order indicates *malafide* on his part.

2.4 It is also observed that AA *vide* order dated 07.02.2023 in an application filed by Canara

Bank cautioned Mr. Ramkripal Sharma for allowing his counsel to act without proper instructions and directed him to act with due care and caution in future. The relevant extract of the AA's observations in this regard is as under:

" this Tribunal cautions the Resolution Professional for allowing his counsel to act without proper instructions which resulted in slippage of claim filed by the Canara Bank during consideration of application by this Adjudicating Authority. As the present application has come for consideration after discharge of the CIRP process, this Tribunal directs the Canara Bank/Applicant to file afresh Section 7 application, if permitted by law against the Corporate Debtor, if the Canara Bank is entitled to do so as on date. We do not find any justifiable reason to allow the prayers made in this application Therefore, the present application is dismissed without any cost. Once again the Resolution Professional who acted as IRP is directed to act with due care and caution in future while exercising his functions and discharging the duties as IRP ..."

2.5 Further, on an appeal filed by Canara Bank against the AA's aforesaid order, the NCLAT vide order dated 04.04.2024 has reprimanded Mr. Ramkripal Sharma for misleading the AA and has also suggested connivance between him and OC so that the OC may settle its dues before the dues of Canara Bank as a financial creditor. The relevant extract of the Hon'ble NCLAT order is as under:

"17.....IRP, in his reply filed to the application under Rule 11 of the Rules for revival of the application, has admitted that he has committed an error in submitting to the Court that no claim has been received. Thus, there is not even an iota of a doubt that the Adjudicating Authority has been grossly misled by the IRP at the time when the order was passed on 22.12.2022 but instead of rectifying its mistake and or to undo the injustice caused to the Appellant, the Adjudicating Authority has dismissed the application bearing 226 of 2023 holding that it could not find any justifiable reason to allow the prayer made in the application and rather in the entire impugned order expressed its anguish and dissatisfaction about the working of the IRP and repeatedly cautioned him to be careful while exercise of his functions and discharging his duties. The prejudice shown by the Appellant, having been caused to it on account of withdrawal of the petition after receiving about Rs. 12 Cr. as an operational creditor over and above the claim of the Appellant being a financial creditor is well made out which should not have been ignored by the Adjudicating Authority while dismissing the application of the Appellant for revival of the main petition which appears to be an act of connivance of the IRP with the OC so that the OC may settle its dues before the dues of the Appellant (Canara Bank) are considered. The filing of application under Section 7 by the Appellant is in no way causes any hindrance in maintaining the present application by the Appellant because the said application has been filed in terms of the order passed in the application bearing 6271 of 2022. If the misrepresentation/concealment of any fact by the IRP to the Adjudicating Authority is considered lightly by relegating the Financial Creditor to any other remedy as it happened in the present case, to take his other remedy in accordance with law then it would be giving a premium to the statutory authority for his lapses and unprofessional act and conduct.

18. Thus, looking from any angle, it is a fit case for interference by this Court in this appeal and thus, the appeal is allowed, and the impugned order is hereby set aside though without any order as to costs.”.

- 2.6 Thus, the Board held *prima facie* view that Mr. Ramkripal Sharma misled the AA about non-receipt of claim from any claimant. The fact that no efforts were made by him for rectification of the factually incorrect statement, indicates connivance between him and the applicant OC so that the OC may settle its dues before the dues of Financial Creditor (Canara Bank), as also observed by the NCLAT.
- 2.7 In view of the above, the Board held the *prima facie* view that by the above-stated conduct and actions, Mr. Ramkripal Sharma have contravened Section 208(2)(a) and (e) of the Code, Regulation 7(2)(a) and (h) of the IP Regulations read with Clauses 1, 2, 5, 12 and 14 of the Code of Conduct for IPs under First Schedule to IP Regulations (Code of Conduct).

Submissions by Mr. Ramkripal Sharma.

- 2.8 Mr. Ramkripal Sharma submitted that the hearing before the AA on 22.12.2022 was only in physical mode and not in hybrid mode.
- 2.9 He submitted that he forwarded all claims received by email or by post, including that of Canara Bank, to the CD on 31.12.2022, and a copy of the same was marked to each claimant in individual emails. Regarding the issue of the AA seems to be misled by the IP, he submitted that such comments of misleading are neither written in the AA's order dated 07.02.2023 nor spoken to him during hearing on 07.02.2023 when he was present physically. He submitted that he explained to the AA and shown the email sent to CD with copy to Canara Bank and other claimants on 31.12.2022. There was no direction to send copy to claimant, however he kept all claimant in copy of every email sent to CD.
- 2.10 Regarding issue of IRP trying to blame his counsel, he submitted that the AA warned him to give proper instructions to the counsel who was not present on 07.02.2023 because of his error without his instructions. He explained the facts to the AA that day-to-day activities like receipt of the claims were not being updated to his counsel nor mentioned in the application of withdrawal filed by the counsel.
- 2.11 Regarding the issue of IRP not filing the application for rectification of the AA order dated 22.12.2022, he submitted that the AA has not mentioned this point in its order of 07.02.2023. When the counsel of Canara Bank raised this point during hearing on 07.02.2023, he showed the emails sent to Canara Bank and other claimants even it was not mentioned in the order dated 22.12.2022 of the AA to give a copy to claimants. He told AA that all claims received till 23.12.2024 business hours were being electronically filed on the AA's portal on 30.12.2022 and uploaded on IBBI portal.
- 2.12 Regarding the issue of act of connivance of the IRP with OC so that OC may settle its dues before the dues of Canara Bank, he submitted that the IRP does not have any role in the settlement between the OC and the CD. The OC provided Form FA on 19.12.2022, the IRP

filed the application on 20.12.2022, and Canara Bank filed the claim on 21.12.2022. The IRP was duty-bound to file the application and did so one day before receiving the claim from Canara Bank.

2.13 Mr. Ramkripal Sharma further provided the summary of claims received which is as under:

Sr No	Name of Creditor	Category	Date of receipt	Amount (Rs.)
1	Canara Bank	FC	21.12.2022	4,33,086,516
2	Power Finance Corporation	FC	20.12.2022	13,104,837,126
3	REC Ltd	FC	22.12.2022	17,325,645,716
4	Indian Infrastructure Finance Company (UK)	FC	22.12.2022	3,265,005,452
5	Shruti Enterprises	OC	19.12.2022	2,093,627
6	Rajiv Electricals	OC	18.12.2022	6,530,412
7	Shri Khatu Shyam Transport	OC	25.12.2022	65,133,517
8	Precision Engineering	OC	21.12.2022	6,490,393

2.14 On being enquired about any email communication by him to his counsel before the 22.12.2022 and after the order passed by the AA on said date, he submitted that there is no email communication from his side to my counsel regarding submission of no claims received before the AA and there is no written communication with his counsel after 22.12.2022.

2.15 Regarding steps taken by him to rectify the impugned misstatement made in the order dated 22.12.2022, he submitted that based on his filings of claims on the AA's portal on 30.12.2022 and IBBI portal and forwarding of all the claims to CD with copy to respective claimants on 31.12.2022 as per directions in the order dated 22.12.2022, he assumed himself as discharged IRP from the working hours of 23.12.2022 and not taken steps to rectify the impugned misstatement made by his counsel.

2.16 Regarding steps taken by him to regarding handing over the CD back to the suspended management after 22.12.2022, he submitted that CD was a going concern and was under regular operation and all approvals were on email till 23.12.2022. After that CD stopped to get approval from him as he was a discharged IRP.

2.17 He further submitted that he was appointed as the IRP by the AA and was not proposed by the applicant OC. He had no intention of concealing any information from the concerned authorities.

3. Analysis and Findings of the DC.

3.1 Chronology of relevant events regarding the matter in hand is tabulated below:

Date	Remarks
07.12.2021	CIRP of the CD admitted and Mr. Ramkripal Sharma was appointed as IRP.
22.12.2021	Withdrawal of the CIRP on account of settlement between the parties.
30.11.2022	CIRP of the CD was revived due to breach of settlement terms and Mr. Ramkripal Sharma was appointed as IRP.
13.12.2022	Public Announcement was made to invite claim from stakeholders wherein the last date for submission of claim was 23.12.2022.
19.12.2022	Settlement arrived between CD and OC and Form FA was handover to Mr. Ramkripal Sharma to file before the AA.
20.12.2022	Mr. Ramkripal Sharma filed application for withdrawal of CIRP of the CD.
22.12.2022	Withdrawal of CIRP allowed with following remarks <i>“this Tribunal allows the present application as the Resolution Professional has confirmed that no CoC is formed till date and no claim has been received from any claimant and also no claim is outstanding”</i>
23.12.2022	Last date of receiving claim from stakeholders.
30.12.2022	Claims uploaded on website of IBBI.
31.12.2022	Claims as received to IRP were forwarded to CD.
12.01.2023	Canara Bank filed application to restore the Company Petition IB 322/2021 which was dismissed vide order dated 22.12.2022.
07.02.2023	<p>The AA dismissed the application filed by Canara Bank and made the following remarks: -</p> <p><i>“This Tribunal cautions the RP for allowing his counsel to act without proper instructions which resulted in slippage of claim filed by the Canara Bank during consideration of Section 12A application by this Adjudicating Authority”</i></p> <p>It was further observed that:-</p> <p><i>“Once again the RP who acted as IRP is directed to act with due care and caution in future while exercising his functions and discharging the duties as IRP. Corporate Debtor is also directed to look into the matter of Canara Bank’s claim and discharge the same as per the terms of repayment of the loan/ credit facilities availed from the Canara Bank”</i></p>
25.02.2023	Canara Bank preferred an appeal before the NCLAT against the order of NCLT dated 07.02.2023.
04.04.2024	<p>The NCLAT allowed the appeal and set aside the order of NCLT dated 07-02-2023 and made the following observations:-</p> <p><i>“17.... Thus, there is not even an iota of a doubt that the Adjudicating Authority has been grossly misled by the IRP at the time when the order was passed on 22.12.2022 but instead of rectifying its mistake and or to undo the injustice caused to the Appellant, the Adjudicating Authority has</i></p>

dismissed the application bearing 226 of 2023 holding that it could not find any justifiable reason to allow the prayer made in the application and rather in the entire impugned order expressed its anguish and dissatisfaction about the working of the IRP and repeatedly cautioned him to be careful while exercise of his functions and discharging his duties. The prejudice shown by the Appellant, having been caused to it on account of withdrawal of the petition after receiving about Rs. 12 Cr. as an operational creditor over and above the claim of the Appellant being a financial creditor is well made out which should not have been ignored by the Adjudicating Authority while dismissing the application of the Appellant for revival of the main petition which appears to be an act of connivance of the IRP with the OC so that the OC may settle its dues before the dues of the Appellant (Canara Bank) are considered. The filing of application under Section 7 by the Appellant is in no way causes any hindrance in maintaining the present application by the Appellant because the said application has been filed in terms of the order passed in the application bearing 6271 of 2022. If the misrepresentation/concealment of any fact by the IRP to the Adjudicating Authority is considered lightly by relegating the Financial Creditor to any other remedy as it happened in the present case, to take his other remedy in accordance with law then it would be giving a premium to the statutory authority for his lapses and unprofessional act and conduct”

- 3.2 The DC notes that the crux of the matter is that during the hearing of withdrawal application, an incorrect statement was made before the AA that “*no claim has been received from any claimant and also no claim is outstanding*”. It is observed that prior to the hearing on 22.12.2022, claims were received not only from Canara Bank but also from other creditors. From the list of claims provided by the IRP, it is observed that Mr Ramkripal Sharma had received claims from five claimants of which two were FCs and three were OCs. Hence, it cannot be said no claims were received before 22.12.2022.
- 3.3 The IRP attributed this lapse to the counsel who appeared on behalf of the IRP. However, when asked to submit documentary evidence of email correspondences with the counsel before 22.12.2022 regarding instructions for submissions before the AA, and after 22.12.2022 regarding submissions made before the AA by the counsel, as well as after 07.02.2024 when caution was issued by AA to the IRP, the IRP replied that there was no email communication with the counsel and failed to produce any documentary evidence to support his submissions. Furthermore, the Mr. Ramkripal Sharma did not submit evidence of any actions taken by him to rectify the misstatement made in the order dated 22.12.2022.
- 3.4 The NCLAT has made serious remark of connivance of IRP with the OC, it is stated in the order dated 04.04.2024 that “*act of connivance of the IRP with the OC so that the OC may settle its dues before the dues of the Appellant (Canara Bank) are considered.*” However, he has not rebutted these observations by way of a miscellaneous application or an appeal.

- 3.5 The DC notes that as per Regulation 30(1) of the CIRP Regulations, it is the duty of the IRP to file an application for withdrawal of the CIRP. While the IRP may seek assistance from professionals during the CIRP of the CD, it cannot simply attribute the lapse to the counsel's failure, especially since the counsel was appointed by the IRP. When the IRP received claims from creditors, it was his responsibility to either inform the counsel of the claims or ensure that the correct factual position was presented. However, the IRP neither informed the counsel about the claims received from creditors nor was he present during the hearing.
- 3.6 The DC notes that Mr. Ramkripal Sharma was under a clear duty to inform the AA of the correct fact of the case pursuant to the order dated 22.12.2022. Mr. Ramkripal Sharma failure to disclose the claims received in the application as well as before the Bench, is in clear contravention of his obligations and duties as entrusted by the Code and the Regulations and the Code of Conduct made therein. The omission on the part of the IRP reflects a serious lapse in his professional conduct. Accordingly, the said contention of Mr. Ramkripal Sharma cannot be accepted.
- 3.7 The above findings clearly indicate a failure on the part of the IRP to discharge his duties with due diligence and transparency, as mandated under the IBC and the CIRP Regulations. The IRP's conduct has resulted in misrepresentation before the bench and a failure to comply with regulatory obligations. Hence, the DC holds the contravention.

4. Order.

- 4.1 In the present matter, the CIRP was again initiated for the third time against the CD by the Canara Bank as FC. As per order of the AA dated 10.12.2024, the matter has been settled between the FC and CD and last opportunity has been given to the parties to submit their application for withdrawal. The DC also takes note of the mitigating factors in favour of Mr. Ramkripal Sharma with respect to the fact that the IRP was appointed by the AA from the panel of IPs shared with the AA. The DC notes the submission of Mr. Ramkripal Sharma that he was not proposed by the OC while initiating CIRP against the CD.
- 4.2 In view of the foregoing discussion, the DC in the 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 AFA of Mr. Ramkripal Sharma (Registration No. IBBI/IPA-002/IP-No 1126/2021-2022/13669) for a period of 3 months.
- 4.3 This Order shall come into force after 30 days from the date of issuance of this order.
- 4.4 A copy of this order shall be sent to the CoC/Stake Holders Consultation Committee (SCC) of all the corporate debtors in which Mr. Ramkripal Sharma is providing his services, and the respective CoC/SCC, as the case may be, will decide about continuation of existing assignment of Mr. Ramkripal Sharma.
- 4.5 A copy of this order shall be forwarded to ICSI Institute of Insolvency Professionals where Mr. Ramkripal Sharma is enrolled as a member.

4.6 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.

4.7 Accordingly, the show cause notice is disposed of.

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

Dated: 17th January 2025

Place: New Delhi