

IN THE NATIONAL COMPANY LAW
TRIBUNAL COURT-VI, NEW DELHI BENCH
IA/1903/ND/2026

In
CP-IB-682/PB/2021

An Application Under Section 60(5) Of The IBC, 2016 Read with Rule 11 Of the NCLT Rules, 2016.

IN THE MATTER OF:

Vinod Kumar Sharma
20C Block-U/3,
Dhawalgiri Apartment,
Sector-11, Noida, UP-201301

...Applicant No.1

**Nalin Kant Bhardwaj &
Pushpa Rani Bhardwaj**
279, Sector 9, Rama Krishna Puram New
Delhi – 110022

...Applicant No.2

Versus

Narender Kumar Shanna
Resolution Professional of M/s Anand
Infoedge Pvt. Ltd, M/s Mist Avenue
Pvt. Ltd. M/s Mist Direct Sales Pvt.
Ltd. Address: D-1/2, Welcom Group,
CGHS, Plot No. 6 Sector - 3, Dwarka,
Delhi - 110078

... Respondent No.1

**Insolvency and Bankruptcy
Board of India**
At 7th Floor, Mayur Bhawan,
Shankar Market, Connaught Circus,
New Delhi – 110001

...Respondent No. 2

Nitin Batra S/o Sh. M.M. Batra
HRC Professional Hub WZ 102, 1/2
Vaibhav Khand Indirapuram,
Ghaziabad Uttar Pradesh-201010

...Respondent No. 3

Gaurav Bhardwaj S/o Late Sh. B.N. Bhardwaj
Flat No. CM 3/305, Supertech
Capetown Sector 74, Noida Gautam
Budha Nagar, Uttar Pradesh-201304

... Respondent No. 4

Col. Gulshan Joneja EA-1/37,
Ground Floor, Inderpuri
New Delhi-110012

... Respondent No. 5

Order Delivered on: 19.08.2026

CORAM

JUSTICE JYOTSNA SHARMA
HON'BLE MEMBER (JUDICIAL)

MS. ANU JAGMOHAN SINGH
HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant: Mr. Shyam Kishan Saraf, Adv in person

For the Respondent: Adv. Sahil Sethi, Adv. Samriddh Bindal,
Adv. Devika Tiwari for R-3 to R-5

For IRP Mr. Praful Jindal, Adv.

ORDER

1. This application under Section 60(5) r/w rule 11 of NCLT Rules, 2016 has been filed by the Applicant against the IRP and 4 more seeking following prayers:

(a) Take appropriate action against Respondent no. 1 by cancelling/terminating/suspending his appointment as Interim Resolution Professional made vide order dated 19.07.2024 qua the three Corporate Debtors namely "Anand Infoedge Pvt. Ltd.", "Mist Avenue Pvt. Ltd." and "Mist Direct Sales Pvt. Ltd." as his Appointment being void ab initio due to suspension of his AFA from 08.12.2023 to 23.07.2024 and thereby nullifying all the actions taken by him during CIRP;

(b) Direct the Respondent no. 2 to take strict disciplinary action against Respondent no. 1 for contravening the provisions of IBC, 2016 and rules and regulations made thereunder particularly Regulation 7A of IBBI(Insolvency Professionals) Regulations, 2016;

(c) Direct the Respondent no. 3, 4 & 5 to propose the name of an alternate IRP (after consulting the 143 allottees whom they were representing) considering the failure of Respondent No. 1 to file a compliance affidavit pertaining to the valid AFA on the date of his appointment / acceptance as an IRP as directed vide para 42 of the order passed by this Hon'ble Tribunal on 19.07.2024.

(d) Pass any other order which may be deemed fit and proper in light of the facts and circumstances of the present case and in the interest of justice.

2. The submissions of the Applicant in brief are that.

- i. In CPIB No. 682/2021 CD was admitted into CIRP vide order passed by the Adjudicating Authority on 19.07.2024 and that Respondent No.1 Narendra Kumar Sharma was appointed as IRP with the direction that the IRP shall file a valid AFA as well as an undertaking within 5 days that there was no investigation pending against him. Further relevant facts are that on the date of his appointment i.e. 19.07.2024 the IRP had no valid AFA and that an investigation against him was pending before IBBI therefore he was ineligible to be appointed as IRP. The IRP was bound to inform his ineligibility but instead he accepted the assignment on 22.07.2024 concealing the material facts and proceeded to publish a public notice on 25.07.2026.
- ii. The Applicants are allottees in project Mist Avenue and stake holders in the CIRP in question. The Respondents No. 3, 4 and 5

i.e. are representatives of total 143 allottees and they are supporting the case of the Applicants.

- iii. In view of deliberate and willful concealment of relevant facts by the IRP and illegal acceptance of the assignment, the appointment of IRP is liable to be cancelled and strict disciplinary action should be directed to be taken by the IBBI.

3. The submissions from the side of Respondent No.1; the IRP are — that the admission order itself provided 5 days' for filing the AFA and no investigation certificate by way of compliance certificate; that admission order was communicated to the IRP by e-mail dated 22.07.2024; that in compliance thereof the Respondent filed a compliance affidavit on 26.07.2024 which contained a valid AFA and the AFA in favour of Respondent valid till 31.12.2025 was actually issued on 24.07.2024

In view of the above facts the contention of the IRP is that when the IRP submitted his compliance certificate, he had a valid AFA therefore he cannot be faulted for accepting the assignment as is clear from the facts dates and events summarized above.

4. The Counsel for the Respondent No. 3, 4 and 5 have supported the case of the Applicants stating that on the date when the IRP was appointed, he had no valid AFA therefore there was no question of accepting the assignment or filing of compliance certificate and that his appointment is illegal and void ab-initio. Moreover, investigation was also pending against him therefore the appointment must be cancelled.
5. We heard both the sides and perused the papers on record.
6. From the papers on record following undisputed facts emerge.
 - i. Respondent No. 1 was appointed IRP vide admission order dated 19.07.2024.
 - ii. By the same order the IRP was directed to file a compliance affidavit within 5 days, pertaining to the valid AFA and an undertaking that there were no investigations pending against him.

- iii. In compliance the IRP filed an affidavit in the main petition stating that his AFA was renewed/revalidated from 24.07.2024 and also stating that there were no pending investigation.
 - iv. The IRP (Mr. Narender Kumar Sharma) was issued a show cause notice on 30.10.2023 by the disciplinary committee of the IBBI in disciplinary proceeding IBBI/DC/2027/2024 dated 11.07.2024. **(Annexure A4)**. This disciplinary proceeding was conducted and decided on 11.07.2024 with a warning cautioning Mr. Narender Kumar Sharma to be careful, further imposing a penalty of Rs. 2,00,000/- and referring back the matter to the board for reinvestigation.
 - v. The IRP (Mr. Narender Kumar Sharma) was issued a show cause notice on 06.03.2024 by the disciplinary committee of the IBBI in disciplinary proceeding IBBI/DC/229/2024 dated 15.07.2024. **(Annexure-5)** This disciplinary proceeding was conducted and decided on 15.07.2024 imposing a penalty of Rs. 2,00,000/- on Mr. Narender Kumar Sharma.
 - vi. Further from the website of IBBI it is evident that another disciplinary proceeding with respect to the show cause notice dated 30.03.2026 issued to the IRP was conducted and a report in that respect No. IBBI/DC/324/2026 dated 10.06.2026 was filed whereby the disciplinary committee suspended the registration of Mr. Narendra Kumar Sharma for a period of two years.
7. A brief question before this Adjudicating Authority is that whether on the date of admission in CIRP the RP had a valid AFA? If not, then whether subsequent renewal of AFA and filing of the same within the limited time granted by the Adjudicating Authority (by the same admission order) is sufficient compliance in law? In other words, whether the lack of valid AFA on the date of admission is regularized by subsequent renewal and filing?
8. The papers on record reveal that the IRP faced three disciplinary proceedings in a row. One of the disciplinary proceedings commenced with a show cause notice dated 30.10.2023 and closed on 11.06.2024

whereby the matter was remanded for fresh investigation. Legally the suspension of AFA is automatically triggered on issuance of show cause notice as is provided for by clause 23A of the Insolvency and Bankruptcy Board of India (Model Bye- Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016. It may be noted that the petition for insolvency was filed in the month of November 2021 with the name of the IRP proposed therein. In these circumstances the factual position which emerges is that that since before the admission order in July 2024 was passed the IRP was facing disciplinary proceeding (first since 30.10.2023 and second since 06.03.2024) consequently had his AFA suspended in law. Another important fact is that as per the paper no. 149, 150 (Annexure A-6) the AFA of the IRP was renewed on 24.07.2024 i.e. five days' after commencement of CIRP. Nothing has come on record to rebut the above facts compelling this Adjudicating Authority to hold that the IRP had no valid AFA on 19.07.2024.

9. In continuation of the above, we may point out that as per the order passed in disciplinary proceedings No. IBBI/DC/227/2024 dated 11.07.2024, reinvestigation was ordered. This fact also finds mention in a subsequent report of disciplinary proceeding No. IBBI/DC/ 324/2026 dated 10th June 2026; relevant portion whereof is as below:

“1.2. Subsequent to a reference made by the Disciplinary Committee (DC) of the Board, vide its order dated 11.07.2024, the Board in exercise of its powers under Section 218 of the Insolvency and Bankruptcy Code, 2016 (Code) read with Regulations 7(2) and 7(3) of IBBI (Inspection and Investigation) Regulations 2017 (Investigation Regulations) appointed an Investigating Authority (IA) to conduct investigation.....”

Therefore, there remains no doubt that at the time when CIRP order was passed i.e. 19.07.2024 the proposed IRP was under investigation and the real facts were never brought to the notice of the Adjudicating Authority by the him.

10. In the context of valid AFA, the Applicant has placed before us a judgment passed by Hon'ble NCLAT, Chennai Bench, in Company Appeal

(AT) (CH) (Ins.) No. 269/2022 and by the Hon'ble NCLAT, Principal Bench, New Delhi in Company Appeal (AT) (Insolvency) No. 890 of 2025.

11. The Regulation 7A of IBBI (IP) Regulation, 2016 is as below:

“An insolvency professional shall not accept or undertake an assignment after 31st December, 2019 unless he holds a valid authorization 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 authorization for assignment”

12. The amendment by which Regulation 7A was introduced came into effect on 23.07.2019, however this particular provision is made applicable from 31.12.2019. From the wordings of Regulation 7A this is clear that the IRP must hold a valid AFA on material dates. By no means it can be inferred that the date of commencement is not a material date. In our firm view where name of IRP is already proposed it should be taken as having given consent for all material times and dates, unless consent is expressly withdrawn by him before the CIRP commencement date. It cannot be the intention of the legislature in the scheme of the IBC that IRP possessed the liberty to not to accept the assignment after passing of CIRP order. This rationale also flows from the fact that the whole of the CIR process is a time bound proceeding and that no time limit has been carved out from statutorily fixed 330 days of maximum CIR period commencing from date of admission.

13. Moreover, as per the definition given in 2(1)(aa) IBBI (Insolvency Professionals) Regulation, 2016, AFA means authorization to undertake an assignment issued by the insolvency professional agency. In our view the AFA must be valid on the date of CIR commencement. The provisions of law do not envisage the renewal or subsequent validation as sufficient compliance. If such an interpretation is allowed to be done, it may entail consequences which are not called for in a time bound CIR proceedings.

14. A plea has come from the side of the IRP that though he had no valid AFA on CIR commencement (19.07.2024) however, he was informed of the commencement not before 22.07.2024 and that he had five days (counting

from 22nd) for ‘accepting’ the assignment and filing the valid AFA. In our view there is no legal provision for a separate acceptance by the IRP. In other words, when a consent has already been given by the IRP having a valid AFA at the time when his name is proposed by the petitioner, it shall be taken as acceptance on all material dates and events (unless it is withdrawn earlier expressly). The plea taken by the IRP beyond this legal position have no legs to stand on. He mislead the Court by his compliance affidavit.

15. In fact, this fact is indisputable that the IRP had no valid AFA on the date of CIR commencement and that investigation was going on against him on that very date. No subsequent renewal or acceptance can cure this defect hence his appointment is invalid in law.

16. Certain facts assume importance at this juncture, first that CIR commenced about 2 years ago. The process has not proceeded any further. No name of a new IRP has ever been proposed by the petitioner as was directed by the Adjudicating Authority in para 42 of the order. We further find that inviting new name at this stage shall further delay the matter. Taking into consideration all the circumstances we appoint **Mr. Sudhir Kumar Agarwal** having IBBI number (IBBI/IPA-001/IP-P00195/2017-2018/10374) and email: ska003@gmai.com from the list maintained by the IBBI.

17. Certain facts assume importance at this juncture first that CIR commenced about 2 years ago. The process has not proceeded any further.

ORDER

1. The appointment of IRP is held to be void- ab- initio and is therefore cancelled.
2. **Mr. Sudhir Kumar Agarwal** having IBBI number (IBBI/IPA-001/IP-P00195/2017-2018/10374) and email: ska003@gmai.com, is appointed as IRP. He shall follow all the directions passed in the order dated 19.07.2024. He shall file his valid AFA and the consent within 48 hours of receiving the intimation as regard his appointment.

- 3.** Mr. N.K. Sharma shall hand over immediately all the papers, documents and materials etc. which have come in his possession because of his appointment to the newly appointed IRP.
- 4.** The copy of the order shall be served upon the newly appointed IRP as well as to the Mr. N.K. Sharma at the earliest.

Accordingly, this **IA/1903/2026** is **disposed of**.

Sd/-

(ANU JAGMOHAN SINGH)
MEMBER (T)

Sd/-

(JYOTSNA SHARMA)
MEMBER (J)