

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 13767 of 2022**

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SUNIL KUMAR AGARWAL S/O KISHAN LAL AGARWAL
Versus
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (IBBI)

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Appearance:

MR P.C.KAVINA, SENIOR ADVOCATE with
MR.VISHAL J DAVE(6515) for the Petitioner(s) No. 1
NIPUN SINGHVI(9653) for the Petitioner(s) No. 1
for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA**Date : 20/07/2022****ORAL ORDER**

1. At the outset, learned senior advocate Mr.Percy Kavina, appearing for the petitioner has submitted that the petitioner is ready and willing to deposit an amount of Rs.5,30,000/- before the Registry of this Court. He has thus submitted that on such depositing, the condition No.4.3 of the impugned order dated 05.07.2022 may be stayed.

2. Learned senior advocate for the petitioner has submitted that the Adjudicating Authority directed Mr. Sunil Kumar Agarwal i.e., the petitioner to proceed for withdrawal of Corporate Insolvency Resolution Process, as already requested by the Operational Creditor (OC) earlier. He has further submitted that on an application filed by Mr. Sunil Kumar Agarwal under Section 12A of the Code read with regulation 30(1)(a) of the Corporate Insolvency Resolution Process (CIRP) regulations, the Adjudicating Authority vide its order dated 31.08.2020 approved the withdrawal of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. He has further submitted that the Adjudicating

Authority vide its order dated 31.08.2020 while allowing the withdrawal of CIRP had made some observations regarding the working of the petitioner at paragraph No.6 passed in IA No. 456/2020.

3. Learned senior advocate has further submitted that the petitioner had preferred an appeal being Company Appeal (AT) (Insolvency) No.862-863 of 2020 before the National Company Law Appellate Tribunal, New Delhi for expunging of remarks observed by the Adjudicating Authority vide its order dated 31.08.2020 against the Petitioner. However, the National Company Law Appellate Tribunal, New Delhi vide its order dated 13.10.2020 has clearly observed that there is no casting of any stigma on the conduct of the Petitioner as resolution professional.

4. Learned senior advocate has also placed reliance on the provisions of Section 220 (1) of the Insolvency and Bankruptcy Code, 2016, and has submitted that the same clearly stipulates that the disciplinary committee shall consist of "whole time members", hence it could be construed that the disciplinary committee should be constituted comprising of at least "two whole time members", whereas in the present case, the coram was comprising of single member, hence the impugned order may be stayed.

5. Having regard to the submissions advanced by the learned senior advocate and in light of the petitioner is ready and willing to deposit an amount of Rs.5,30,000/- before the Registry of this Court, the condition Nos.4.3 which requires the petitioner to undergo pre-registration educational course from

the IPA of which he is a member, is stayed till the next date of hearing.

6. Issue **NOTICE** to the respondent returnable on **09.09.2022**.

7. The petitioner shall deposit the aforesaid amount on or before the next date of hearing.

Direct service is permitted.

(A. S. SUPEHIA, J)

MAHESH BHATI/08

