

Indian Institute of Insolvency Professionals of ICAI

(Disciplinary Committee)

DC. No. - IIIPI/DC/19/2020-21

ORDER

In the matter of Mr. Ajay Gulati (Respondent) under Clause 15(1) of the Disciplinary Policy of IIIPI read with Clause 24(1)(c) of IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, (2016).

- 1.0** This order disposes of the Show Cause Notice (SCN) dated 31-08-2020 issued to the respondent, C-66, Shivalik, ND-17, New Delhi, National Capital Territory of Delhi, 110017. Respondent is a professional member of the Indian Institute of Insolvency Professionals of ICAI and an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (Board) with Registration No. IBBI/IPA-001/IP-P00943/2017-2018/11547. The Disciplinary Committee of IIIPI (DC) issued SCN to respondent, based on the reference received from the Monitoring Committee in respect of taking up assignment without holding valid Authorization for Assignment (AFA), as an Interim Resolution Professional (IRP) in corporate insolvency resolution process (CIRP) of Ardee City Estate Management Private Limited. Respondent submitted his contention to the SCN vide letter dated 21-09-2020. An opportunity for personal hearing was provided to the respondent on 14-10-2020 by the Disciplinary Committee (DC). Accordingly, he appeared before the DC of IIIPI through video conferencing and made oral submissions before the DC.
- 2.0** The allegation against the respondent is that in spite of insertion of Regulation 7A in the IP Regulations, vide notification dated 23-07-2019, which requires for any IP to procure a valid AFA before undertaking any assignment after 31-12-2019, he accepted the assignment as an IRP in the CIRP of Ardee City Estate Management Private Limited, without holding a valid AFA. The appointment of the respondent as an IRP was confirmed by the NCLT vide order dated 14.01.2020
- 3.0** Respondent in this regard has submitted that the application for initiation of CIRP was filed by the FC before the Hon'ble NCLT on 06-02-2019 along with his consent in Form 2 issued by the respondent on 05-02-2019. The application was thereafter heard by the Hon'ble NCLT on multiple instances and reserved the order for pronouncement on 11-09-2019 and pronounced the same on 14-01-2020 and appointed him as IRP. During personal hearing the respondent reiterated the submissions made in his written reply.
- 4.0** The DC after taking into consideration the SCN, the reply to SCN, the oral and written submission of the respondent and also the provisions of the Code, rules and the regulations made thereunder noted that the Regulation 7A of IP regulations requires every IP to have

AFA before undertaking any assignment after 31st December 2019. Regulation 7A reads as follows:

“7A. An insolvency professional shall not accept or undertake an assignment after 31st December, 2019 unless he holds a valid authorisation for assignment on the date of such acceptance or commencement of such assignment, as the case maybe:

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 authorisation for assignment.”

5.0 The DC noted and considered all submissions given by the respondent and is of the opinion that respondent is not guilty of Professional Misconduct, as the regulation i.e. 7A of IP Regulations came into effect from 01-01-2020 whereas the respondent had given his consent on 05-02-2019 and appointment of the respondent as IRP was confirmed by the NCLT, based on his written consent provided on 05-02-2019.

6.0 In view of the above the Disciplinary Committee, in exercise of its powers conferred under Clause 24(1) (c) of IBBI (Model Bye Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 read with clause 15(1) of the Disciplinary Policy of IIIPI, DC hereby decides the respondent as not guilty. Accordingly, the Show Cause Notice is disposed of.

7.0 This order shall come into force from the date of its issue.

8.0 A copy of this order shall be forwarded to the Insolvency and Bankruptcy Board of India.

Date: 01-12-2020

Place: Delhi

CERTIFIED TRUE COPY

Sd/-

Mr. Satish Marathe, (Chairman)

CA. Atul Gupta, (Member)

Mr. Satpal Narang, (Member)

CA. Rahul Madan, (Member)

Copy to:

1. Insolvency and Bankruptcy Board of India.

2. Indian Institute of Insolvency Professionals of ICAI- Members Record