

Indian Institute of Insolvency Professionals of ICAI

(Disciplinary Committee)

DC. No. - IIIPI/DC/20/2020-21

ORDER

In the matter of Mr. Girish Siriram Juneja (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 Mr. Girish Siriram Juneja R/O 22 Dignity Apartments, Bon Bon Lane, 7 Bungalows, Versova, Andheri (West), Mumbai City, Maharashtra ,400053. 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-P00999/2017-2018/11646 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 a Resolution Professional (RP) in corporate insolvency resolution process (CIRP) of Reliable (Paper) India Private Limited. Respondent submitted his contention to the SCN vide letter dated 09-09-2020. An opportunity for personal hearing was provided to the respondent on 14-10-2020 by the Disciplinary Committee (DC) accordingly respondent 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 of Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2019, vide notification dated 23-07-2019, which requires for an IP to procure a valid AFA before undertaking any assignment after 31-12-2019, he accepted the assignment as RP in the CIRP of Reliable (Paper) India Private Limited, without holding a valid AFA. The appointment of the respondent as RP was ratified by the CoC in their meeting held on 06-01-2020.
- 3.0** Respondent in this regard has submitted that his name was proposed as the IRP for Reliable Paper (India) Limited (RPIL) in March 2019 by the Oriental Bank of Commerce and respondent provided his consent on 12-04-2019 as IRP. The Honourable NCLT Mumbai bench admitted the petition vide order dated 03-12-2019 and appointed him as the Interim Resolution Professional (IRP) for Reliable (Paper) India Private Limited. The CoC members ratified his appointment as the Resolution Professional on 06-01-2020 at the first CoC meeting of RPIL. He further submitted that the resolution of the CoC asking him to continue as the resolution professional was a continuation of the appointment made by

NCLT Mumbai and was not a fresh appointment. No appointment letter was issued to him in Jan 2020 either by NCLT Mumbai or by the CoC of RPIL. During the course of personal hearing respondent added that at the time of accepting the assignment he was under the impression that his appointment as RP would be considered as a ratification of his appointment, which was done by NCLT and it was not a fresh appointment.

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 Thus, it is apparent from the said Regulation that one of the essential conditions for undertaking any assignment by an IP is that he should have a valid AFA after 31-12-2019. *“Assignment’ is defined under regulation 2(a) of the IP Regulations as “any assignment of an insolvency professional as interim resolution professional, resolution professional, liquidator, bankruptcy trustee, authorised representative or in any other role under the Code*

6.0 DC noted the submission given by the respondent. Pursuant to the submission made during the hearing, by the respondent, DC considered the provisions which have been laid down and is of the view that the assignment as an IRP and assignment as RP are the two stand-alone assignments. Though at times the same Insolvency Professional (IP) may be appointed as an IRP and RP. However, it is not compulsory that an IP appointed as IRP in any assignment will always continue as an RP and therefore IRP and RP could be two different persons, and hence these are two different assignments.

7.0 In view of the foregoing, the DC noted that since the change of role of an IP from IRP to RP are two stand-alone assignments and the assignment as RP to which the respondent got confirmed on 06-01-2020, is beyond the prescribed threshold date i.e. 31-12-2019. Therefore, this tantamounts to the non-compliance of the regulatory provisions.

8.0 Taking an overall view of the aforesaid, the Disciplinary Committee is of the view that Respondent is guilty of Professional Misconduct.

9.0 At the same time, the DC also took note of the fact that the regulation was newly introduced and thus, inclined to take a lenient view.

10.0 Accordingly, in exercise of the powers conferred under Regulation 24(1) (c) of the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 read with clause 15(A) of the Disciplinary Policy of IIPPI, DC hereby decides to impose a penalty of Rs 10,000/- on the respondent, to be deposited by way of demand draft payable in favour of the Indian Institute of Insolvency Professionals of ICAI (IIPPI) within 30 days of the issue of this order. IIPPI shall in turn will deposit the said penalty amount in the Insolvency and Bankruptcy Fund in terms of clause 24(5) of the Model Bye Laws. Accordingly, the show cause notice is disposed of.

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

12.0 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