

**Indian Institute of Insolvency Professionals of ICAI  
(Disciplinary Committee)**

**DC No. - IIIPI/DC/07/2019-20**

**ORDER**

This order disposes of the Show Cause Notice dated 12<sup>th</sup> December, 2019 (SCN) issued to Mr. Bhupender Pal Kaushik, 62, Nagin Lake Apartments, Paschim Vihar, Near Peeragarhi, New Delhi-110087. Mr. Kaushik is a professional member of the Indian Institute of Insolvency Professionals of ICAI (IIIPI) and Registered with IBBI with Registration No – IBBI/IPA-001/IP-P01073/2017-2018/11764. The Monitoring Committee of IIIPI observed non-submission of disclosure despite repeated reminders and non-responsiveness to the emails sent by IIIPI.

2. The DC considered the reference made by Monitoring Committee and reviewed the records to issue Show Cause Notice (SCN). The SCN was issued for alleged contravention of the following provisions of the Code and circular issued by IBBI:
  - I. Para (2) of the Circular No. IP/005/2018 dated 16<sup>th</sup> January, 2018 requires that “In the interest of transparency, it has been decided that an insolvency professional and every other professional appointed by the insolvency professional for a resolution process shall make disclosures as specified in Para 3 to 5 hereunder.”
  - II. Para (3) of the Circular No. IP/005/2018 dated 16<sup>th</sup> January, 2018, requires that “ An insolvency professional shall disclose his relationship, if any, with (i) the Corporate Debtor, (ii) other Professional(s) engaged by him, (iii) Financial Creditor(s), (iv) Interim Finance Provider(s), and (v) Prospective Resolution Applicant(s) to the Insolvency Professional Agency of which he is a member, within the time specified..”
  - III. Para (4) of the Circular No. IP/005/2018 dated 16<sup>th</sup> January, 2018, requires that “ An insolvency professional shall ensure disclosure of the relationship, if any, of the other professional(s) engaged by him with (i) himself, (ii) the Corporate Debtor, (iii) Financial Creditor(s), (iv) Interim Finance Provider(s), and (v) Prospective Resolution Applicant(s) to the Insolvency Professional Agency of which he is a member, within the time specified..”
  - IV. Para (6) of the Circular No. IP/005/2018 dated 16<sup>th</sup> January, 2018, requires that “An Insolvency Professional Agency shall facilitate receipt of disclosures as required above. It

shall disseminate such disclosures on its web site within three working days of receipt of the disclosure”

- V. Para (7) of the Circular No.IP/005/2018 dated 16<sup>th</sup> January, 2018, requires that “The Insolvency Professional shall provide a confirmation to the Insolvency Professional Agency to the effect that the appointment of every other professional has been made at arms’ length relationship.”
- VI. Para (9) of the Circular No.IP/005/2018 dated 16<sup>th</sup> January, 2018, requires that “The Insolvency Professional shall ensure timely and correct disclosures by him and the other Professionals appointed by him. Any wrong disclosure and delayed disclosure shall attract action against the Insolvency Professional and the other Professional as per the provisions of the law. “
- VII. Clause 13 of the Code of Conduct of IIIPI requires that “An insolvency professional must adhere to the time limits prescribed in the Code and the rules, regulations and guidelines thereunder for insolvency resolution, liquidation or bankruptcy process, as the case may be, and must carefully plan his actions, and promptly communicate with all stakeholders involved for the timely discharge of his duties.”
- VIII. Clause 14 of the Code of Conduct of IIIPI requires that “An insolvency professional must not act with mala fide or be negligent while performing his functions and duties under the Code.”
- IX. Clause 15 of the Code of Conduct of IIIPI requires that “An insolvency professional must make efforts to ensure that all communication to the stakeholders, whether in the form of notices, reports, updates, directions, or clarifications, is made well in advance and in a manner which is simple, clear, and easily understood by the recipients.”
- X. Clause 19 of the Code of Conduct of IIIPI requires that “An insolvency professional must provide all information and records as may be required by the Insolvency and Bankruptcy Board of India or Indian Institute of Insolvency Professionals of ICAI.”
- XI. Clause 25A of the Code of Conduct of IIIPI requires that “An insolvency professional shall disclose the fee payable to him, the fee payable to the insolvency professional entity, and the fee payable to professionals engaged by him to the insolvency professional agency of which he is a professional member and the agency shall publish such disclosure on its website.”
- XII. Clause 27 of the Code of Conduct of IIIPI requires that “An insolvency professional shall disclose all costs towards the insolvency resolution process costs, liquidation costs, or costs of the bankruptcy process, as applicable, to all relevant stakeholders, and must endeavour to ensure that such costs are not unreasonable.”

3. A summary of contravention alleged in the SCN, and thereupon the findings of the DC are as under:

3.1 **Contravention:** In terms of the IBBI circular N0. IP/005/2018 dated 16<sup>th</sup> January 2018 Mr. Kaushik was required to submit the disclosure due on date in respect of the on-going processes to the respective Insolvency Professional Agency by 31<sup>st</sup> January 2018 or on the applicable

date for CIRP assignments taken up thereafter. The disclosure is required to be made within 03 days of the appointment as IRP/RP and within 03 days of the appointment of other professionals. Also, in case IP is not having any assignment he is required to file 'Nil' disclosure in the interest of transparency.

- 3.2 **Finding:** In this respect, it is noted that at the time when SCN was issued there was requirement to file disclosure by IP with respect to assignments in hand, and as Mr Kaushik did not have any assignment at that period of time, moreover he duly filed all his necessary disclosures thereafter. Committee, therefore, decided to take a lenient view on the matter and disposed of the matter without any adverse order.
4. The Disciplinary Committee, 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(1) of the Disciplinary Policy of IIPAI, held Mr. Bhupender Pal Kaushik as not guilty. However, hereby advise Mr. Kaushik to be diligent in future and follow all regulations, circulars, and guidelines in letter and spirit. Accordingly, the case is disposed of.
5. This order shall come into force from the date of its issue. A copy of this order shall be forwarded to IBBI.

**Date: 30-05-2021**

**Place: Delhi**

**CERTIFIED TRUE COPY**

**Sd/-**

**Mr. Satish Marathe, (Chairman)**

**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