

INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Disciplinary Committee)

DC. No. IIIPI/DC/33/2021-22

ORDER

In the matter of Mr Mahabir Gupta (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) Regulation, (2016).

1.0 This order disposes of the Show Cause Notice (SCN) dated 13-07-2021, issued to the respondent, R/o 802, 8th Floor, Tower No.4, Eliganza Tower, SPR Society, Sector-82, Faridabad, Haryana-121002. Respondent 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-P00643/2017-2018/11091. 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 Liquidator in voluntary liquidation process of Black Rose (Henna) Private Limited. Respondent submitted his contention to the SCN vide email dated 04-08-2021. An opportunity for personal hearing was provided to the respondent on 13-12-2021 by the Disciplinary Committee (DC), through video conferencing mode however, the respondent did not avail the same.

2.0 The allegation against the respondent is that despite insertion of Regulation 7A in the IP Regulations, vide notification dated 23-07-2019, which requires for an IP to have AFA before undertaking any assignment after 31st December 2019, he accepted the assignment as liquidator in voluntary liquidation process of Black Rose (Henna) Private Limited, without holding a valid AFA. Respondent gave his consent of being appointment as a voluntary liquidator on 17-10-2020, which was confirmed by way of resolution dated 18-11-2020.

3.0 In response to allegation respondent made following submissions:

- I. Respondent accepted his mistake and tendered apology. He submitted that the mistake happened due to his ignorance, as this was his first ever assignment after being registered as an insolvency professional.
- II. That as soon as he came to know about his mistake, he applied for AFA which was rejected on grounds of non-compliance of CPE hours.
- III. That to avoid any further mistake he resigned, which was accepted in the EGM held on 22-02-2021 and new liquidator was appointed. He also requested to drop the proceedings and assured that in future he will take care and follow all relevant applicable law and rules.

4.0 The DC after taking into consideration the SCN, the reply to SCN, and 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 the submissions given by the respondent. DC took note that despite violating and non-compliance with the provisions of law, the respondent corrected his mistake as soon as regulation came into his knowledge by surrendering his ongoing project. DC also took note of the fact that respondent did not claim any fee out of agreed fee of Rs. 75000/- (plus GST) for the assignment. In view of the facts, as stated above, DC is inclined to take a lenient view of the contravention of Regulation 7A.

6.0 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(1) of the Disciplinary Policy of IIIPI, DC hereby pronounces the respondent as not guilty. However, DC hereby advises the respondent to be diligent and more careful in future about compliance with regulations and guidelines laid down by IBBI also, upgrade his professional knowledge to avoid such situations in future. 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: 04-01-2022

Place: Delhi

CERTIFIED TRUE COPY

Sd/-

Mr. Satish Marathe, (Chairman)
CA. (Dr.) Debashis Mitra (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.