

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

DC. No. IIPI/DC/104/2021-22

ORDER

In the matter of Ms. Ashok Seshadri (Respondent), under Clause 15(1) of the Disciplinary Policy of IIPI 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) No. IIPI/DC/104/2021-22 dated 11-01-2022 issued to **Ms. Ashok Seshadri** (Respondent), A2, Dynamic Flats Parangusapuram Street, Kodambakkam, Chennai, Tamil Nadu ,600024. Respondent is a professional member of the Indian Institute of Insolvency Professionals of ICAI (IIPI) and registered with IBBI with Registration No – IBBI/IPA-001/IP-P00937/2017-2018/11541.
- 2.0** The Disciplinary Committee of IIPI (DC) issued SCN to the respondent, based on the reference received from Monitoring Committee of IIPI including the findings in the inspection report of Inspection Authority (IA), pertaining to assignments handled by his as an IRP/RP in the CIRP of **(a) Adept Technology Private Limited (b) Archana Motors Private Limited (c) RA Samy Private Limited**. The SCN alleged the contravention of the provisions of section 24(3), 25(2)(h) and 29 of the Insolvency and Bankruptcy Code, 2016; Regulation 27, 36, 36A and 40B of the Insolvency Resolution Process for Corporate Persons Regulation 2016; Regulation 7(2) (a) and (h) of IBBI (Insolvency Professional) Regulation, 2016, read with clauses 13, 14, 16, 19 and 27 of the Code of Conduct for Insolvency Professionals, specified under First Schedule of IBBI (Insolvency Professionals) Regulations, 2016; and IBBI Circulars No. IBBI/RV/019/2018 dated 17-10-2018, IBBI/RV/022/2019 dated 13-08-2019 and IBBI/CIRP/23/2019 dated 14-08-2019. The Respondent submitted her contentions to the SCN vide letter dated 11-01-2022.
- 3.0** The DC referred the SCN, written/oral submissions of the respondent and other material available on record for disposal of the SCN in accordance with the Code and Regulations made thereunder. An opportunity for personal virtual hearing was provided to the respondent on 13-04-2022 however, due to some unforeseen circumstances respondent's matter was adjourned to 06-05-2022. Respondent chose to be represented through his counsel Mr. P. Ulaganathan. Accordingly, on date respondent along with his counsel appeared before the DC, wherein the respondent/his counsel reiterated the submissions made in the written reply and also made a few additional submissions.

A. Adept Technology Private Limited

- 4.0 Allegation:** Section 24(3) of Insolvency and Bankruptcy Code 2016 provides that *“the resolution professional shall give notice of each meeting of the committee of creditor: -*
- a. Members of committee of creditors, including their authorised representatives.*
 - b. Members of the suspended Board of Directors or the partners of the corporate persons, as the case may be.*
 - c. Operational creditors or their representatives if the amount of their aggregate dues is not less than ten percent of the debt.”*

However, it is noted that notice of 2nd CoC meeting wasn't provided to suspended board of directors.

4.1. Submissions: Respondent in his reply submitted that this was his first assignment. Canara Bank was the leading FC with 78% of the voting power. As a matter of fact, Deutsche Bank sent in their claims late and joined only during the 2nd COC meeting. It was a request from Canara Bank not to invite the directors for the second meeting.

Respondent further submitted that:

- i. The company was in the business of imparting specialized training for software engineers and to conduct exams for them to obtain certificate from overseas. The certifying company gave that right to other players in the market making it difficult for this company to get the necessary volumes. So, there was no prospects of its revival. The second meeting also recorded the desire to go for early liquidation and there was no protest from the directors.
- ii. The company was under liquidation now and even though the shareholder directors were facing avoidance charges they never objected to the liquidation per se.
- iii. During personal hearing respondent admitted his mistake and the counsel of the respondent added that notice of the first CoC meeting was sent to the suspended directors of the CD and when the suspended directors joined the first meeting, they created lot of mess in the meeting and hurdles in the smooth functioning of the meeting and for this reason Canara Bank decided not to invite the suspended directors for the 2nd CoC meeting.
- iv. Respondent also tendered his apology during personal hearing and requested to take a lenient view.

4.2. Finding: Section 24(3) (b) of Insolvency and Bankruptcy Code 2016 clearly provides that:

“24 (3) the resolution professional shall give notice of each meeting of the committee of creditor: -
a.....
b Members of the suspended Board of Directors or the partners of the corporate persons, as the case may be.
c.”

4.3. Under the provisions of the Code, the responsibilities of CoC and IP are clearly demarcated. The CoC must not encroach upon the role of IP and must not allow the IP to encroach upon its role. Similarly, the IP must not compromise his independence in favour of the CoC.

4.4. Further, the responsibilities of the IRP/RP under the Code require highest level of standards, calibre and integrity which inspire confidence and trust of the stakeholders and the society. The role of an IP is vital to the efficient operation of the insolvency and bankruptcy resolution process. The IP forms a crucial pillar upon which rests the credibility of the entire resolution process. For that purpose, the code provides for certain duties, obligations for undertaking due diligence in conduct of insolvency process to establish integrity, independence, objectivity, and professional competence in order to ensure credibility of both process and profession as well.

4.5. In the instant matter DC notes that since the respondent did not circulate the notice of the second CoC meeting to the suspended directors on the basis of a decision of the COC, he has contravened the provisions of Section 24(3)(b). At the same time DC notes the submission of the respondent that it was his first assignment and notice of the first CoC meeting was sent to the suspended directors of the CD and when the suspended directors joined the first meeting, they spread lot of mess in the meeting and created hurdles in the smooth functioning of the meeting and for this reason Canara Bank decided not to invite the suspended directors for the 2nd CoC meeting. DC also notes that respondent admitted his mistake and tendered his apology for the same. The DC heard the respondent carefully and found no malafide intentions on the part of the respondent. Looking into the circumstances and difficulties explained by the respondent the DC is inclined to take a lenient view.

5.0 Allegation: The next allegation against the respondent was that as per IBBI Circular no. IBBI/CIRP/023/2019, dated 14-08-2019, read with Regulation 40B of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2019, it is mandatory for an IRP/RP to file requisite Forms along with required enclosures in respect of CIRPs undertaken, as per the timelines stipulated. However, it is noted that respondent failed to provide cost sheet prepared by him as IRP and relationship disclosure made to IPA along with the submission of CIRP-2 Form.

5.1. Submissions: In this regard respondent submitted that during the inspection when this defect was pointed out he downloaded the forms from his page of the IIPI website and uploaded the same in his page of the website of IBBI. But the system was asking him to pay a fee of around Rs. 6,500 per modification.

Respondent further submitted that:

- i. He felt that since CIRP 2 has already been filed, the levy of fees of Rs. 6,500 per modification was not reasonable. He also asked for a waiver and then got busy with work and preparation for his daughter's marriage.
- ii. It was only when the SCN issued to him he realizes that this matter is still pending and have now paid the enhanced fee and have uploaded the same.

5.2 Finding: An insolvency professional is bestowed with myriad duties. An insolvency professional is expected to exercise due diligence while performing his duties. His diligence should be reflected not only during the corporate insolvency resolution process but also while fulfilling any obligation as a professional member under the Code. In the instant matter the DC takes note of the contentions of the respondent. The DC further notes the fact that respondent filed the CIRP-2 Form in time and only failed to attach cost sheet and relationship disclosure as an attachment while filing CIRP -2 Form. DC also notes the fact that respondent has now rectified the error by paying enhanced fee. In the given circumstances the DC accepts the contention of the respondent and decides to take a lenient view.

6.0 Allegation: Regulation 27 of the Insolvency Resolution Process for Corporate Persons Regulation 2016 provides that *“the resolution professional shall within seven days of his appointment, but not later than forty-seventh day from the insolvency commencement date, appoint two registered valuers to determine the fair value and the liquidation value of the*

corporate debtor in accordance with regulation 35.” However, it is noted that respondent failed to appoint registered valuers, as prescribed under the Code.

6.1. Submissions: In this regard respondent in his reply submitted that the books of accounts of the CD showed assets worth of Rs. 2.16 cr. at cost. However, in actual the assets shown to him was just some furniture and office equipment which when valued during liquidation, was valued at Rs. 3.5 lakhs and out of these assets nearly 91% was under the custody of the erstwhile house owner who initially refused permission for the valuers and allowed only when NCLT ordered the same.

Respondent further submitted that:

- i. The CIRP was initiated based on an application filed under section 9 of IBC. The major member of COC, i.e., Canara bank wanted to keep the cost at the minimum and expressed its concerns in favour of early liquidation as there was no prospects of revival of the CD. The same has been recorded in the minutes of the 1st COC meeting. Therefore, keeping in view the concerns of the CoC regarding early liquidation, the valuers were not appointed during CIRP period.
- ii. Respondent also added that even today when they did a valuation in April 2021 they could not get paid till now as the FCs don't bother to fund the activity.

6.2. Finding: The IP is to maintain integrity, by being honest, straight forward and forthright in all his professional relationships while conducting business during CIRP. His conduct has a substantial bearing on performance and outcome of the processes under the Code. He, therefore, is expected to function with reasonable care and diligence to ensure credibility of the process. It is imperative for an IP to perform his/her duties and functions with utmost care and diligence in time bound manner.

6.3. Regulation 7(2)(a) and 7(2)(h) of the Insolvency and Bankruptcy Board of India (Insolvency Professional), Regulations, 2016 provides as under:

“7. Certificate of Registration:

(1)

(2) The registration shall be subject to the conditions that the insolvency professional shall–

(a) at all times abide by the Code, rules, regulations, and guidelines thereunder and the bye-laws of the insolvency professional agency with which he is enrolled”.

(h) abide by the Code of Conduct specified in the First Schedule to these Regulations; and... ”

Clauses 13 and 14 of First Schedule of Code of Conduct for Insolvency Professionals under Regulation 7(2)(h) of IBBI (Insolvency Professionals) Regulations, 2016 states as follows:

Clause 13: 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.

Clause 14: An insolvency professional must not act with mala fide or be negligent while performing his functions and duties under the Code”.

6.4. The DC notes that regulation 27 of the CIRP Regulations provides for appointment of professionals. The regulation is reproduced below:

“27. Appointment of Professionals. (1) The resolution professional shall, within seven days of his appointment but not later than forty-seventh day from the insolvency commencement date, appoint two registered valuers to determine the fair value and the liquidation value of the corporate debtor in accordance with regulation 35.”

6.5. With regard to the issue of non-appointment of the registered valuers to determine the fair value and liquidation value of the CD by the respondent, the DC notes that it is duty of RP to appoint two registered valuers within forty-seventh day of the ICD. In the instant case, the DC notes the submission of the respondent that the assets shown to him was just some furniture and office equipment which when valued during liquidation, was valued at Rs. 3.5 lakhs and out of these assets nearly 91% was under the custody of the erstwhile house owner who initially refused permission for the valuers and allowed only when NCLT ordered the same. The DC also notes the submission of the respondent that the member of CoC, Canara bank a leading bank having 78% of voting share, wanted to keep the cost at the minimum and was in favour of early liquidation as there was no prospects of revival of the CD.

6.6. The DC further notes that the company was not in business and there were no assets except a few furniture and office equipment. Further the same fact was also brought before the NCLT and same was recorded in the liquidation order dated 03-09-2019 and also in the minutes dated 19-07-2019. Relevant extracts from order of NCLT, dated 03-09-2019, reproduced hereunder:

“It is averred by the Resolution professional that the company is not in business. There is no revenue and employees. It has no premises to operate from. It has virtually no assets except a few furniture and office equipment. Instead, the company has liability of nearly Rs 3 Crores for which claims have been submitted.

“In the 2nd CoC meeting held on 19.07.2019, the CoC considering the fact that there could be hardly of any response even if invitation for “Expression of interest” from prospective Resolution Applicants and has recorded that the continued CIR Process would any further add strain to the financial status of the Corporate Debtor, and hence, decided to liquidate the Corporate Debtor. The Resolution passed by the CoC as follows:

“Resolved, considering the lack of assets in the company or business prospects for the company, to apply to NCLT for liquidation without undergoing the process of resolution.”

6.7. DC heard the respondent carefully and found no malafide intention on the part of the respondent and in the above given scenario, there appears to be no contravention on part of the respondent.

7.0 Allegation: As per Regulation 36(1) read with regulation 36(4) of the Insolvency Resolution Process for Corporate Persons Regulation 2016 provides that the resolution professional shall submit the information memorandum in electronic form to each member of the committee within two weeks of his appointment, but not later than fifty-fourth day from the insolvency

commencement date, whichever is earlier” and comply with the requirements under sub-section 2 of section 29.

Further Section 25(2)(h) of Insolvency and Bankruptcy Code 2016, provides that, an RP should invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors to submit a resolution plan or plans. Further, as per Regulation 36A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016, resolution professional should publish brief particulars of the invitation for expression of interest in Form G of the Schedule at the earliest, not later than seventy-fifth day from the insolvency commencement date, from interested and eligible prospective resolution applicants to submit resolution plans.

In view of foregoing provisions, it is noted that respondent failed to prepare and share the information memorandum to the CoC members as prescribed under the code also he failed to publish or invite expression of interest from interested and eligible prospective resolution applicants to submit resolution plans, as prescribed under the code.

7.1. Submissions: In this regard respondent in his reply submitted that it is a fact that the company was not operational for more than two years prior to the CIRP order. It did not even have a place to operate. The only assets displayed to him was some furniture and office equipment which were subsequently valued at Rs. 3.5 lakhs and good percentage of assets were in the possession of the erstwhile house.

Respondent further submitted that:

- i. The preparation of the information memorandum got delayed as the books of accounts were not ready.
- ii. He filed an application under section 19(2) for co-operation to get the books of accounts and records from the directors of the suspended board.
- iii. Information memorandum as can be seen in Section 29 is for formulating a resolution plan. Books of accounts were not maintained for previous years from the insolvency commencement date and those incomplete accounts were only provided to the respondent during the liquidation period coupled with assets worth only about Rs. 3.5 lakhs. Prospects of business revival was very low, and an information memorandum cannot not be prepared in such a way that it could be used for formulating a resolution plan.
- iv. This matter was also tabled in the 2nd COC meeting held on 26-06-2019.
- v. The information memorandum was prepared on 12-08-2019 and submitted to the sole member of the COC on 12-10-2019 post receiving NDA from the bank.

7.2. In respect of issue pertaining to not inviting the Expression of Interest (EoI), as specified under section 25(2)(h) read with regulation 36A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016, respondent submitted that after the first meeting of the CoC he was chasing the suspended directors for bringing the books of accounts up to date mainly to know the fate of the assets knowing fully well that a prospective investor can get interested only if there is prospects of future business or if there is some assets. The major member of COC, i.e., Canara bank wanted to keep the cost at the minimum and expressed its concerns in favour of early liquidation as there was no prospects of revival of the CD. In this scenario CoC members will hesitate to approve the expenses of EoI and reason being he delayed giving invitation of EoI. The same fact was also echoed by the COC in the second meeting when they resolved to go for early liquidation without going through the (various) process of resolution. Respondent also added that the invitation was issued on 28-08-2019

and then there had been two more public announcement with extension of the time. Unfortunately, despite three invitations inviting expression of Interest from prospective resolution applicants there was no response by anyone.

7.3. Finding: With regard to the issue of non-preparation of the IM, the DC notes that respondent failed to prepare the IM as required under regulation 36 read with regulation 40A of the CIRP regulations. The DC notes that regulation 36 of the CIRP regulations provides that:

“36. Information memorandum.

(1) Subject to sub-regulation (4), the resolution professional shall submit the information memorandum in electronic form to each member of the committee within two weeks of his appointment, but not later than fifty-fourth day from the insolvency commencement date, whichever is earlier.”

The DC notes the submission of the respondent, that despite his best efforts, he did not get any information, documents, records or books of account of the CD and he had to struggle to get hold of the relevant documents, records and information relating to the CD from the directors of the suspended board. The DC also notes the submission of the respondent that the books of accounts were not ready/updated from the year ended 31-3-2013 onwards. DC also notes that respondent filed an application under section 19(2) upon receiving non-co-operation from the directors of the suspended board. As per his submission, he could not complete IM despite his best efforts in the context of given facts and circumstances. The DC accepts the submission of respondent.

7.4. Under the Code, RP plays a central role in resolution process of the CD, he is appointed by the AA as an officer of the Court to conduct the resolution process and it is the duty of RP to conduct CIRP with integrity and accountability in the process and to take reasonable care and diligence while performing his duties. Therefore, it becomes imperative for an IP to perform his duties with utmost care and diligence. Section 208(2) of the Code provides that every insolvency professional shall abide by the Code of Conduct.

Clauses 13 and 14 of First Schedule of Code of Conduct for Insolvency Professionals, specified under First Schedule of IBBI (Insolvency Professionals) Regulations, states as follows:

“Clause 13: 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.

Clause 14: An insolvency professional must not act with mala fide or be negligent while performing his functions and duties under the Code”.

7.5. With regard to the issue of not inviting the expression of interest (EoI), as specified under section 25(2)(h) read with regulation 36A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016, the DC notes the submission of the respondent that the member of COC, Canara bank a leading bank having 78% of voting share, wanted to keep the cost at the minimum and was in favour of early liquidation as there was no prospects of revival of the CD and in this scenario respondent presumed that the CoC will hesitate to

ratify/approve the expense of EoI. Reason being he delayed giving invitation of EoI from prospective resolution applicant. DC also notes that despite publishing EoI for three times, respondent did not receive any response pursuant to the same. In the instant case model timelines to publish EoI should have been followed by the respondent as prescribed under the code, however considering the practical difficulties/challenges as explained by the respondent, the DC accepts the contentions of the respondent.

B. Archana Motors Pvt Limited.

8.0 Allegation: Section 25 of Insolvency and Bankruptcy Code 2016, mentions duties of resolution professional. It provides that, *“(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions, namely-*

(h) Invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans.”

Section 29 (1) of Insolvency and Bankruptcy Code 2016, mentions preparation of information memorandum. It provides that, *“(1) The resolution professional shall prepare an information memorandum in such form and manner containing such relevant information as may be specified by the Board for formulating a resolution plan.”*

Regulation 27(1) of CIRP Regulations, 2019, states for appointment of professionals. It provides that, *“(1) The resolution professional shall, within seven days of his appointment but not later than forty-seventh day from the insolvency commencement date, appoint two registered valuers to determine the fair value and the liquidation value of the corporate debtor in accordance with regulation 35.”*

Regulation 36(1) of CIRP Regulations, 2019, provides for submission of information memorandum. It provides that, *“Subject to sub-regulation (4), the resolution professional shall submit the information memorandum in electronic form to each member of the committee within two weeks of his appointment, but not later than fifty-fourth day from the insolvency commencement date, whichever is earlier.”*

Regulation 36A (1) of CIRP Regulations 2016, provides for invitation for expression of interest. It states that, *“(1) The resolution professional shall publish brief particulars of the invitation for expression of interest in Form G of the Schedule at the earliest, not later than seventy-fifth day from the insolvency commencement date, from interested and eligible prospective resolution applicants to submit resolution plans.”*

In view of foregoing provisions, it is noted that respondent have contravened above stated provisions as:

- a) Respondent have not invited expression of interest from prospective resolution applicants within 75 days from commencement of insolvency process.
- b) Respondent have not prepared and circulated information memorandum in accordance with provisions of the Code within 54 days from commencement of insolvency process.

- c) Respondent have failed to appoint registered valuers within time frame envisaged by the Code.

8.1. Submissions: Respondent submitted that the CD was in business of sales and service of TATA trucks. The dealership of TATA was taken away from CD after flood that occurred in August 2018. Respondent submitted that the application for CIRP under Section 9 of IBC was admitted in July 2019, however, by then all the main work was given on lease to MG Motors. As informed by suspended managing director, plant, machinery, stocks, and record was lost during the floods. Hence, there was no relevance in appointing valuers.

Respondent further submitted that:

- i. That as there were no assets in the company and the books of accounts was updated till year 2018, due to which there was very less prospect of revival of the CD, therefore respondent recommended to proceed with early liquidation, without inviting EOI.
- ii. That there was hardly any data available to trace the physical assets that had lost in floods. However, incidentally Hon'ble NCLT, Kochi ordered suspended directors to restore Rs.21 crore to the company. Due to non-cooperation, respondent filed an application before Appellate Authority, which got dragged unusually, resulting into frustration of liquidation order.
- iii. That in second CoC meeting, the CoC resolved to defer the appointment of valuers. Hence, in view of the described circumstances, since there was no prospect of revival and no asset, respondent did not carry out valuation, prepare IM and any attempt to look for RA.

8.2. Finding: The RP is appointed by the Adjudication Authority and by virtue of the Code, is given the responsibility to effectively manage the CD as a going concern and is entrusted with the fate of the ailing CD during the process of CIRP. This puts the RP in a central position possessing immense powers however, the RP also has the corresponding responsibility to abide by the Code, rules, regulations, and guidelines at all times. During the CIRP, IP has to face many hurdles. The IP forms a crucial pillar upon which rests the credibility of the entire resolution process. For that purpose, the code provides for certain duties, obligations mandating him to perform certain tasks under the Code while acting as an IRP, a RP, a Liquidator, or a Bankruptcy Trustee. The IP may appoint various professionals such as accountants, legal or other professionals, as may be necessary in accordance with the provisions of the Code to assist him in conducting the business and management of the CD.

83. In the instant matter DC notes that in CIRP of Archana Motors Pvt. Ltd., respondent failed to appoint registered valuers, prepare information memorandum, and invite expression of interest, as per Code and regulations. At the same time DC notes the submission of the respondent that due to floods of August 2018, all the assets including plant, machinery, stocks, and records of CD were lost. All the remaining main works were leased out to MG motors. The DC notes that losing assets of company due to occurrence of flood, is an exceptional circumstance. Such an event is beyond his control and the same appears to have caused adverse impact on conducting CIRP for an IP. The DC took note of the submission of the respondent and in view of the situation/circumstances/difficulties explained by the respondent, DC is inclined to take a lenient view.

C. RA Samy Private Limited

9.0 Allegation: The next allegation against the respondent was that in accordance with IBBI Circular no. IBBI/CIRP/023/2019, dated 14-08-2019, read with Regulation 40B of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016, it is mandatory for an IRP/RP to file requisite Forms along with required enclosures in respect of CIRPs undertaken, as per the timelines stipulated. In this connection, it is noted that respondent has omitted submission of requisite attachments that were necessary to be furnished along with forms. Following deficiencies were noted in submission of Forms:

- (a) CIRP 2- Cost sheet and Relationship disclosure.
- (b) CIRP 3- Latest Audited Financial Statements, Provisional Financial Statements for the current year, Cost and Relationship Disclosure.

9.1. Submissions: In this regard respondent submitted that during the inspection when this defect was pointed out he downloaded the forms from his page of the IIPI website and uploaded the same in his page of the website of IBBI. But the system was asking him to pay a fee of around Rs. 6,500 per modification.

Respondent further submitted that:

- i. He felt that since CIRP 2 has already been filed, the levy of fees of Rs. 6,500 per modification was not reasonable. He also asked for a waiver and then got busy with work and preparation for his daughter's marriage.
- ii. It was only when the SCN issued to him he realizes that this matter is still pending and have now paid the enhanced fee and have uploaded the same.
- iii. Respondent in case of CIRP-3 has submitted that he has duly uploaded the 'cost and the relationship' declaration. But there was still the issue of uploading latest AFS and the subsequently provisional FS. A copy of the AFS for year ended March 2012 was uploaded by the respondent. The company is not in operation ever since it was declared NPA in 2013. The directors started a proprietary concern in their son's name and continued the same business in the same premises.
- iv. Respondent further added that "this is the subject matter of my application for Relief to the CD from the transactions of the directors. I have valued the rental income to be close to Rs. 20 lakhs per month and have prayed for the Tribunal to direct the directors and their relations to pay to the CD. In the meantime, there is no books of account or AFS after the year 2012. I have highlighted all this in a mail to the DC team. A copy of the mail is attached. But since I have only 21 days to respond to the SCN I don't want to wait any further. I have uploaded the Cost and relationship disclosure and paid the enhanced fee."

9.2 Finding: An insolvency professional is bestowed with myriad duties. An insolvency professional is expected to exercise due diligence while performing his duties. His diligence should be reflected not only during the corporate insolvency resolution process but also while fulfilling any obligation as a professional member under the Code. In the instant matter the DC takes note of the contentions of the respondent. The DC further notes the fact that respondent filed the CIRP-2 Form in time and only failed to attach cost sheet and relationship disclosure as an attachment while filing CIRP -2 Form. DC also notes the fact that respondent has now rectified the error by paying enhanced fee. The DC further notes the clarification submitted by the respondent in case of deficiencies in CIRP-3 Form. In the given

circumstances the DC accepts the contention of the respondent and decides to take a lenient view.

10.0 In view of the facts, as stated above, the DC is inclined to take a lenient view. 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 IIPPI, DC hereby disposes of the SCN without any adverse directions against the respondent. However, DC hereby advises the respondent as follows: -

- (i) That the respondent should take reasonable care and be extremely careful, diligent while performing her duties under the Code.
- (ii) That respondent should maintain and upgrade his professional knowledge and skills to render competent professional services.
- (iii) That respondent 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 her actions, and promptly communicate with all stakeholders involved for the timely discharge of her duties.

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: 14-06-2022

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.