

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

DC. No. IIPI/DC/102/2021-22

ORDER

In the matter of Mr. Kedarram Ramratan Laddha (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/102/2021-22, dated 7th January, 2022 issued to **Mr. Kedarram Ramratan Laddha** (Respondent), 1002, Mondeal Square, Nr Prahladnagar Garden, S.G Highway, Ahmadabad, Gujarat, 380015. Respondent is a professional member of the Indian Institute of Insolvency Professionals (IIPI) of ICAI and registered with IBBI with registration no –**IBBI/IPA-001/IP-P00586/2017-18/11115**.
- 2.0.** The Disciplinary Committee of IIPI (DC) issued SCN to respondent, based on the reference received from Monitoring Committee of IIPI, pertaining to lapse on the part of respondent as gave his consent to act as Resolution Professional in the CIRP of **M/s Hi Rise Infratech Private Limited** without holding a valid Authorisation of Assignment (AFA). The SCN alleged the contravention of provisions of Section 208(2)(a) and 208(2)(e) of the Insolvency and Bankruptcy Code, 2016, Regulation 7A, 7(2)(h) and 7(2)(i) of IBBI (Insolvency Professional) Regulation, 2016 read with clauses 1, 2, 12 and 14 of the Code of Conduct for Insolvency Professionals, specified under First Schedule of IBBI (Insolvency Professionals) Regulations, 2016. Respondent submitted his response to the SCN vide mail dated 29-01-2022. An opportunity for personal hearing was provided to the respondent on 06.05.2022 by the Disciplinary Committee (DC). Accordingly, he appeared before the DC of IIPI through video conferencing and made oral submissions.
- 3.0. Contravention:** The insertion of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, vide notification dated 23-07-2019, states that every IP is required to procure a valid AFA before undertaking any assignment after 31-12-2019. The allegation against the respondent is that despite not holding AFA, he accepted the assignment of M/s Hi Rise Infratech Private Limited in the role of RP.
- 4.0 Submission:** Respondent in view of above levied allegation submitted that he was appointed as an IRP by order of NCLT, Delhi, dated 03-03-2021. Respondent applied for Authorisation for Assignment (AFA) on 02-04-2021.
- 4.1** Respondent gave his consent to act as an RP on 05-05-2021, under the bona fide belief that after filing of the AFA, it will be granted to him. The committee approved appointment of respondent as RP in meeting held on 27-05-2021.
- 4.2** Respondent submitted that due to false impression of AFA being approved and Covid-19 at peak, he forgot to check the status of application. Later, when he became aware of the fact that his application was rejected, he informed the CoC about the same. However, the CoC in response stated that respondent shall continue to function as an RP as by then, he had carried out the functions effectively and efficiently.

4.3 Therefore, respondent didn't resign and without holding AFA executed his duties as an RP. However, respondent admits his mistake and duly apologises for inadvertently accepting assignment.

5.0 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. It is the duty of an IRP/ RP to perform and discharge his/ her duties in accordance with the Code and the Regulations made thereunder, in letter and spirit.

5.1 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."

5.2 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"*.

5.3 The DC noted that respondent had given his consent on 05-05-2021 to become RP in the CIRP of *M/s Hi Rise Infratech Private Limited* without having valid AFA. The DC 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. Therefore, this tantamount to the non-compliance of the regulatory provisions.

5.4 At the same time DC noted that respondent applied for Authorisation for Assignment (AFA) on 02-04-2021. He gave his consent to act as an RP on 05-05-2021 and was appointed as an RP in CoC meeting held on 27-05-2021. It is noted that time span for approval/rejection of an AFA application is 15 days. On the other hand, that time from application of AFA till the ratification by CoC, estimates for more than a month. Therefore, respondent had ample time to check status of his application. Henceforth, the negligent behaviour of respondent depicts his frivolous attitude towards profession.

5.5 The DC further notes that any ratification done by CoC, cannot overrule the provisions of Code or Regulations, which an IP shall abide all times. It was duty of the respondent to ensure no act is performed in contravention to law. Even, if any such act was performed mistakenly, immediate steps to rectify the error should have been taken.

6.0 Taking an overall view of the aforesaid, the Disciplinary Committee is of the opinion that Respondent is guilty of Professional Misconduct. 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. In terms of clause 24(5) of the Model Bye Laws, IIPPI shall in turn will credit the said penalty to the fund constituted under section 222 of the Code. 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: 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.