

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

DC. No. IIIPI/DC/119/2021-22

ORDER

- 1.0** This order disposes of the Show Cause Notice (SCN) dated 2nd March 2022 issued to Mrs. Hetal Gaurang Kothari (Respondent), 306, Krishna Kunj - 1B, Tambe Nagar, SN Road, Mulund West, Mumbai City, Maharashtra, 400080. 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-P01610/2019 -2020/12500. The Monitoring Committee of IIIPI observed lapse with respect to submission of Half Yearly Return (HYR), which every IP is required to file bi-annually latest by 15th October and 15th April each year.
- 2.0** The DC considered the reference made by Membership Committee and reviewed the records to issue Show Cause Notice (SCN). The SCN was issued for alleged contravention of the following provisions:
- I. Section 208(2)(a) of the Code requires that an Insolvency Professional (IP) “to take reasonable care and diligence while performing his duties.”
 - II. Section 208(2)(e) “of the Code requires an Insolvency Professional (IP) “to perform his functions in such a manner and subject to such conditions as may be specified.”
 - III. Clause 16 of the Model Bye-Laws and Governing Board of Insolvency Professional Agencies, Regulation 2016, requires that “*A professional member shall submit information, including records of ongoing and concluded engagements as an insolvency professional, in the manner and format specified by the Agency, at least twice a year.*”
 - IV. Clause 6.1.1 (i)(c) of Monitoring Policy of IIIPI, states, “*Action against Defaulters on Non-Submission of Half Yearly Return*

iii. Such cases of delay shall be referred by Monitoring Committee to Disciplinary Committee after allowing maximum period of 3 months for those members who have assignments during the period and members who do not have any assignment during the period after allowing maximum period of one year.”
 - V. Regulation 7(2) (a) IBBI (Insolvency Professional) Regulation, 2016, which requires that “the registration of an IP shall be subject to the conditions that he 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.”
 - VI. Regulation 7(2) (h) IBBI (Insolvency Professional) Regulation, 2016, which requires an IP to abide by the Code of Conduct specified in the First Schedule to these Regulations.
 - VII. 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.”

VIII. 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 Board or the insolvency professional agency with which he is enrolled.”

3.0 A summary of contravention alleged in the SCN, and the observation of the DC are as under:

4.0 Contravention: Clause 16 of the Model Bye-Laws of Governing Board of Insolvency Professional Agencies states that “A professional member shall submit information, including records of ongoing and concluded engagements as an insolvency professional, in the manner and format specified by the Agency, at least twice a year.” In terms of Clause 16, respondent was required to submit half yearly return to Insolvency Professional Agency (IPA) within 15 days from the end of the respective Half Year. It is noted that respondent, despite having assignment, failed to adhere to the requirement, as specified above, for the period ending on 30th September 2021.

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. In the present matter DC noted that respondent has complied and filed all the pending HYRs and requested to pardon his default, committee therefore decided to take a lenient view on the matter.

6.0 In view of the facts, as stated above, 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 IIIPI, DC hereby pronounces the respondent as not guilty. However, DC hereby advises the respondent to be diligent and more careful in future while complying with provisions under 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.