

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

DC. No. - IIIPI/DC/46/2021-22

ORDER

In the matter of Ms. Uma Kothari (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) Regulations, (2016).

- 1.0** This order disposes of the Show Cause Notice (SCN) dated 17-12-2021 issued to the respondent Ms. Uma Kothari 20A, Charu Chandra Place East Kolkata, West Bengal, 700033. Respondent is a professional member of the Indian Institute of Insolvency Professionals of ICAI, and an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (Board) with Registration No IBBI/IPA-001/IP-P01041/2017-2018/11714. The Disciplinary Committee of IIIPI (DC) issued SCN to respondent, based on the reference received from Monitoring Committee of IIIPI including the findings in the inspection report of Inspection Authority (IA), pertaining to assignment handled by her as Interim Resolution Professional (IRP)/ Resolution Professional (RP) in the CIRP of **Mondal & Manna Coldstore Private Limited** (Corporate Debtor). Respondent submitted her contention to the SCN vide letter dated 03-01-2022.
- 2.0** The allegation against the respondent was, that in the matter of 'Mondal and Manna Coldstore Private Limited', respondent convened 3rd, 4th, 5th, 6th, and 7th CoC meetings at shorter notice. However, no resolution, seeking consent of the members for the same was passed in 1st meeting of COC. In this connection respondent provided two different copies of the minutes of 1st CoC meeting with IA. Initially the copy of minutes shared by respondent were unsigned however, post sharing of Interim Inspection Report by IA respondent submitted another copy of same minutes with modified contents. As in the copy of unsigned minutes of first CoC meeting provided by the respondent before commencement of inspection resolution seeking consent of members for conducting the forthcoming CoC meetings at shorter notice was missing. However, the same has been duly recorded in the signed copy of minutes of first CoC meeting provided by respondent later, in response to interim inspection report shared with him. The discrepancy in contents of minutes created a doubt on the conduct of the respondent to be malafide and indicated that respondent misrepresented the facts before the IA.
- 3.0** Respondent in this regard submitted, that she provided unsigned notices and minutes because of short time allowed (less than 24 Hours) by IA for submitting the documents. She tried to send all the final/signed documents but because of no staff in the office and due to peak time of pandemic, COVID-19 situation, unfortunately unfinished draft of minutes (working sheets) of first COC meeting was sent wrongly. Later when she realised her mistake, she sent correct document.
- 4.0** Respondent further submitted that in this matter there was only one creditor namely United Bank of India, a public sector undertaking. In the first meeting of COC held on 16-10-2019. It was decided and resolved that in future, meetings of COC may be called at shorter notice. Accordingly, further meetings were called as per mutual convenience. All meetings took place at office of sole creditor so there was no lapse at all in holding any meeting as it was held on giving notice of at least one day. Respondent also stated that, it may be noted that when there is only one participant

in meeting, and such participant has recorded attendance for meeting and resolution was passed, voting sheet was signed by FC, the resolution was acted upon, there cannot be any reason of doubt.

- 5.0** It was further submitted by the respondent that she has not misrepresented any facts before IA. She has a copy of voting sheet for passing of the said Resolution duly signed by FC in the first Meeting of CoC, which was also submitted before IA
- 6.0** Respondent also added that she submitted all progress reports with Adjudicating Authority, Honourable NCLT, Kolkata Bench and duly disclosed all the facts before the bench. Honourable judges have passed orders including approval of Resolution Plan after considering all aspects of laws applicable in this matter.
- 7.0** In respect of the allegation, DC notes the submission of the respondent that while submitting the documents to IA, in hurry, by oversight she attached the draft minutes of the first meeting of the CoC instead of final minutes. DC also took note of the fact that respondent adduced the documentary proof in support of final minutes of the first meeting of the CoC i.e., the voting sheet passing the resolution, duly signed by the sole FC in the first CoC meeting.
- 8.0** Further, DC noted the fact there is no evidence on record which can establish that respondent tried to mislead the IA. DC has gone through the documents carefully and found no malafide intention on the part of the respondent. Also, DC finds no reason to believe that respondent provided fabricated document to IA, with any ill intent or with ulterior motive to achieve any undue or unlawful gain to herself.
- 9.0** The DC also notes that the pandemic situation is as an exceptional circumstance and accepts respondents' contention as the pandemic situation was beyond her control and the same appears to have caused lapse in submission of the information. Therefore, the DC is of the view that respondent has made an inadvertent mistake while attaching the documents in email and not a mistake in maintaining and preparing records and other statutory requirement.
- 10.0** 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 IIPPI, DC hereby pronounces respondent as not guilty. Accordingly, the show cause notice is disposed of.
- 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.