

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

DC. No. IIIPI/DC/216/2024-25

ORDER

1.0 This order disposes of the Show Cause Notice (SCN) dated 26th July, 2024 issued to Mr. Manish Gupta (respondent), M P R & Co., E-62, LGF, Lajpat Nagar-II, New Delhi, National Capital Territory of Delhi, 110024. 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-P01131/2018-19/11826. 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, irrespective of having or not having assignments.

2.0 The DC of IIIPI (DC) considered the reference made by monitoring committee and reviewed the records to issue Show Cause Notice (SCN). The DC has additionally considered the order passed by the Insolvency and Bankruptcy Board of India (Board), dated 08-12-2023, wherein the Board cancelled the registration of Mr. Manish Gupta. The SCN was issued to respondent 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 IIPAI 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 IIPAI 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, the respondent is 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 the respondent failed to adhere to the requirement, as specified above, for the period ending on 30th September 2023, despite having assignment.

4.1 Finding: An insolvency professional is bestowed with a myriad of 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 despite repeated reminders, the respondent did not file his pending Half Yearly Returns, for the year ending September 2023.

4.1.1 As mentioned at para **2.0**, DC has additionally considered the order of the Board cancelling the registration of the respondent for different contraventions such as *non-appearance before AA, non-cooperation with Inspecting Authorities in conduct of Investigation, and non-responsive to the communications of the Board, non-submission of records to the Board, non-conduct of the CIRP proceedings diligently and non-submission of Forms listed in regulation 40B of the CIRP Regulations.*

4.1.2 The DC of IIIPI reviewed the records and finds that three (3) SCNs were already issued against the respondent, pertaining to non-filing of HYR for three different half yearly period ending March 2022, September 2022 and March 2023. However, the respondent had not provided any reply to the notices issued to him and remained unresponsive. The DC further notes that on similar contravention, the membership of the respondent is already under suspension.

4.1.3 DC further notes Clause 9 of Model Bye-Laws which provides that *“No individual shall be enrolled as a professional member if he is not eligible to be registered as an insolvency professional with the Board.”*

DC further notes clause 30 (d) which states that:

*“30. A professional member shall be expelled by the agency -
...(d) upon the cancellation of his certificate of registration by the Board...”*

4.1.4 In view of the foregoing facts and provisions, DC is of the view that the respondent is no longer a fit and proper person to continue as a member of IIIPI.

5.0 Accordingly the DC, in exercise of the powers conferred under Clause 24 (1) (c) and 24 (2) (a) of the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 read with clause 15(2) of the Disciplinary Policy of IIIPI, DC hereby cancels the membership of the respondent from the date of passing of this order. Accordingly, the show cause notice is disposed of.

6.0 This order shall come into force from the date of its issue.

7.0 A copy of this order shall be forwarded to the Insolvency and Bankruptcy Board of India.

CERTIFIED TRUE COPY

Sd/-

Mr. Satish Marathe, (Chairman)

Mr. Rajvir Singh (Member)

CA Rahul Madan, (Member)

Date: 21-01-2025

Place: New Delhi

Copy to:

1. Insolvency and Bankruptcy Board of India.
2. Indian Institute of Insolvency Professionals of ICAI- Members Record