

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

DC. No. - IIIPI/DC/214/2025-26

ORDER

In the matter of Mr. Anuj Jain (Respondent) under Clause 15(1) of the Disciplinary Policy of IIIPI read with Clause 24(1)(c) of Byelaws of Indian Institute of Insolvency Professionals of ICAI (IIIPI).

- 1.0** This order disposes of the Show Cause Notice (SCN) dated 29-04-2025 issued to the respondent Mr. Anuj Jain, M/s BSRR & Co. Chartered Accountants, 8th Floor Building No.10, DLF Cyber City, Gurgaon Haryana -1220002. Respondent is a professional member of the Indian Institute of Insolvency Professionals of ICAI (IIIPI) and an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (Board) with Registration No IBBI/IPA-001/IP-P00142/2017-2018/10306. The Disciplinary Committee of IIIPI (DC) issued SCN to the respondent, based on the reference received from the Grievance Redressal Committee of IIIPI (GRC) pertaining to assignment handled by him as Interim Resolution Professional (IRP)/ Resolution Professional (RP) in the matter of **M/s Ballarpur Industries Limited** (Corporate Debtor/CD).
- 2.0** The DC referred to 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 of personal virtual hearing was provided to the respondent on 21-07-2025 by the DC. The respondent personally appears before DC for his pleadings and additional submissions.
- 3.0 Contravention-** In the CIRP of M/s Ballarpur Industries Limited (BILT), the complainant/ (EPFO) raised the allegation that their claim got delayed due to the misleading communication made by respondent via letter dated 23rd October 2020 (alleged letter) wherein the complainant was requested not to proceed with the assessment enquiry until the CIRP of CD gets concluded. Consequently, claim was inordinately delayed, resulting in the claim of the EPFO department (complainant) not being admitted. Based on information available on record it prima facie reflects that lack of appropriate communication with EPFO department led to non- admission of claim, which raises question about the due diligence exercised by respondent in balancing interests of concerned stakeholders.

In view of the above, the DC held the *prime facie* view that respondent has contravened Section 208(2) (a) of the Code, Regulation 7(2)(a) and (h) of the IBBI (Insolvency Professional) Regulations 2016 read with clause 12, 14 and 15 of the Code of Conduct for Insolvency Professionals, specified under First Schedule of IBBI (Insolvency Professionals) Regulations, 2016, as respondent has not exercised due diligence and was negligent while making correspondences with stakeholder.

3.1 Submissions by Respondent – In response to the allegation, respondent submitted that pursuant to an application filed before Hon'ble National Company Law Tribunal, Mumbai Bench ('NCLT'), the NCLT had initiated the CIRP of CD vide order dated 17th January 2020 as per the provisions of Insolvency and Bankruptcy Code, 2016 ('IBC'). Initially, Mr Divyesh Desai was appointed as the IRP, subsequently, Mr. Anuj Jain was appointed as the Resolution Professional (RP) of the Corporate Debtor vide order dated 27th May 2020, passed by Hon'ble NCLT, Principal Bench. The Resolution plan submitted by Finquest Financial Solutions Private Limited ('Finquest') was approved by the hon'ble NCLT vide order dated 31st March 2023 ('Approved Resolution Plan').

3.1.1 The respondent further submitted that his role and responsibilities as RP got over on 31st March 2023 with the approval of the Resolution Plan. His subsequent role as a chairman and member of the Monitoring Committee also got over when Finquest (Successful Resolution Applicant) implemented the approved resolution plan on 25th October 2023. Further, respondent confirmed that all the records of the company have been duly handed over to the new management led Finquest and its appointed Board of Directors. Further respondent submitted that the CIRP of the Ballarpur Industries Limited (BILT) was successfully concluded.

3.1.2 In reference to the alleged contravention of provision of IBC code, IP regulations and code of conduct for Insolvency Professionals, the respondent submitted that he discharged his duties with utmost diligence and care considering the interest of all stakeholders.

3.1.3 With respect to specific matters, respondent referred to para 7 of Regional Provident Fund Commissioner-I ("RPFO") order dated 08th December 2023 (Annexure I) where it has been stated that:

"During the course of proceedings, letter dated 21.08.2020 were issued to Sh. Divyesh Desai, /RP of the establishment with the request to provide the records for verification, so that claim in prescribed format may be submitted before him."

The respondent contended that it is clear from the foregoing that the RPFO was fully cognizant of and informed about the claim filing process under IBC. Therefore, the RPFO allegation of miscommunication is without merit.

3.1.4 Furthermore, respondent submitted that, via communication dated 8th June, 2020, he informed the RPFO about the transition from IRP to RP. Despite receiving this communication, the RPFO continued to send correspondence to the erstwhile IRP, thereby resulting in unnecessary delay in receiving communication from EPFO.

3.1.5 Additionally, respondent cited para 6 and 7 of his letter dated 23rd October 2020 which stated:

"(6) Additionally, we also note that the RPFC is desirous of filing a claim in regard to provident

fund dues payable by BILT before the resolution professional. BILT had also been called upon to produce records for inspection by the inspection squad.

(7) We understand that the inspection of records is imperative for filing of the above said claim by RPFC. However, please note that due to the prevailing circumstances and staggered operations of the company on account of COV/D-19, finalization of the relevant documents/records for inspection got delayed. However, we would like to inform you that we are now ready to get our records inspected on any date of your choice with prior intimation to us and we are in process of filling online monthly return from April-20 and onward"

- 3.1.6** Respondent further submitted that it is clear from the letter that he has never restricted the RPFO from inspecting records. He merely informed the RPFO about the practical difficulties encountered in producing records related to the pre-CIRP period. Once he was able to locate the records to a reasonable extent, he informed the RPFO about the readiness for inspection. It is evident that the respondent consistently exercised reasonable care and diligence in the performance of his duties.
- 3.1.7** The respondent also submitted that Regulation 6A of the IBBI Regulations, 2016 mandates insolvency professionals to communicate with creditors regarding the public announcement made under Regulation 6, using postal or electronic means wherever relevant contact information is available. However, this regulation was only introduced into the IBBI Regulations effective from 16 September 2022. Consequently, the communication requirement specified under this regulation was not in effect at the time of claim submission in the CIRP of BILT.
- 3.1.8** The respondent further submitted that, after 23rd October 2020, RPFO continued the inspection and with support from the Corporate Debtor's employees, relevant documents and information were provided to the RPFO in accordance with the same RPFO has filed a claim in the Form - B amounting to INR 11,49,29,284/- on 16th March 2023. In reference to the claim received on 16th March 2023 from the RPFO the respondent merely informed RPFO that claim has been filed belated i.e. after cut-off date (24.08.2021). Further, the respondent filed an application on 22nd March 2023 seeking directions from the Hon'ble NCLT in respect of the belated claims filed by various Government authorities including claim of Employees Provident Fund Organization Karnal (EPFO) filed by the RPFO on its behalf.
- 3.1.9** Additionally, vide letter dated 03rd July 2023, EPFO authorities were informed that an application bearing IA No. 2863 of 2023 (in Company Petition No. 2915 of 2019) had been filed seeking directions from the NCLT in respect of the belated claims filed by various Government authorities, which also included the belated claim filed by EPFO. Further, the RPFO was impleaded as a respondent to the application and was requested to participate in the proceedings initiated by the undersigned before the Ld NCLT. The particular matter is still

pending adjudication before Ld NCLT.

- 3.1.10** The respondent further submitted that the, Hon'ble NCLAT, in the I.A. No 670 of 2023 vide order dated 01st July 2024 directed Successful Resolution Applicant to pay INR 11.49 crores towards EPFO KarnaI dues and INR 8.84 crores towards gratuity dues of Shree Gopal unit totaling to INR 20.33 crore as amounts payable under CIRP. The said order has also been upheld by the Hon'ble Supreme Court vide order dated 20th September 2024.
- 3.1.11** It was further submitted that BILT was a complex case involving multiple locations and high degree of complexity. Due to lack of funding and adverse market conditions due to COVID19, the manufacturing operations at Shree Gopal unit were suspended during the CIRP. This resulted in worker unrest and adverse operating conditions at the Plant location in Yamuna Nagar (Haryana) where all critical records, especially w.r.t EPFO and Employee wages were maintained. The respondent acknowledged some delay in organizing the critical data and relevant personnel for EPFO inspection.
- 3.1.12** Respondent further submitted that there was never any intention to deprive employee dues including EPFO dues payable as part of this process. In fact, the respondent played an important role at the time of approval of resolution plan and subsequent appeals to ensure that additional amounts are paid towards employee and PF dues in the spirit of Hon'ble Supreme Court judgement in 'Jet Airways', which was delivered after the resolution plan was approved by CoC. This resulted in higher recovery for EPFO more than what was available in the resolution plan approved by CoC.
- 3.1.13** The respondent submitted during the personal hearing that at the time when Resolution Plan was approved, the Jet Airways judgment (which clarified the priority treatment of PF and gratuity dues) had not been delivered. Therefore, EPFO claims were treated as operational debt, in line with legal precedent then prevailing. Following the Jet Airways decision, the EPFO matter was reconsidered and taken up before the NCLAT, which ruled in favor of EPFO. Further, respondent also added the fact during the personal hearing that the SRA made full payment to EPFO, despite these dues not being part of the original Resolution Plan
- 3.1.14** Respondent also submitted that all decisions were taken in the best interest of the Corporate Debtor, its affected lenders and employees/ workmen (key stakeholders) and ensuring that the sanctity of the process is maintained. Any error or omission was not intended to violate or go against the scheme of IBC.

4.0 Analysis & Findings-

- 4.1 DC notes that communication plays a pivotal role in the success of insolvency process. One of the important duties of an IP is to remain vigilant and clear while drafting any formal communication to any stakeholder during a resolution process.
- 4.2 In this regard, clause 15 of the Code of Conduct of IP Regulations provides that an insolvency professional must make efforts to ensure that all communication to the stakeholders, whether in the form of notices, reports, updates, directions, or clarifications, is made well in advance and in a manner which is simple, clear, and easily understood by the recipients.
- 4.3 In the instant matter, DC notes that CIRP of the CD was initiated vide NCLT order dated 17-01-2020 and Mr. Divyesh Desai was appointed as IRP. Subsequently on 27-05-2020 the respondent was appointed as RP, and he took over the charge of the CD. Post initiation of CIRP of the CD the EPFO wrote a letter dated 21-08-2020 addressed to the respondent regarding default on the part of CD in payment of dues for the period April 2018 till March 2019.
- 4.4 In response to the EPFO's letter dated 21 August 2020, the respondent replied by letter dated 23 October 2020. The relevant excerpts of the alleged letter are reproduced hereunder: -

5. In view of the above, you are requested not to proceed with the PF Enquiry until the CIRP of BILT has been concluded and the moratorium order passed by NLCT ceases to operate.

6. Additionally, we also note that the RPFC is desirous of filing a claim in regard to provident fund dues payable by BILT before the resolution professional. BILT had also been called upon to produce records for inspection by the inspection squad.

7. We understand that the inspection of records is imperative for filing of the above said claim by RPFC. However, please note that due to the prevailing circumstances and staggered operations of the company on account of COVID-19, finalization of the relevant documents/records for inspection got delayed. However, we would like to inform you that we are now ready to get our records inspected on any date of your choice with a prior intimation to us and we are in process of filling online monthly return from April-20 and onward.

- 4.5 In view of the above, DC notes that language of the purported letter is ambiguously drafted and it is difficult to understand the true intent of the respondent. At point no 5, the respondent prohibits EPFO from conducting the PF enquiry while at point 7 respondent explained his inability to provide the records, due to then prevailing circumstances on account of COVID-19, while affirming his willingness to allow inspection with advance notice once the records get finalised.
- 4.6 DC further notes that later relevant documents and information were provided to the EPFO by

the respondent. Thereafter, EPFO filed its claim amounting to INR 11,49,29,284/- on 16th March 2023, which the respondent duly acknowledged, notwithstanding that claim of the complainant was submitted after the Resolution Plan had already been approved by the Committee of Creditors. Subsequently, on 22nd March 2023 respondent filed an application before the Hon'ble NCLT seeking directions on the belated claims submitted by various government authorities, including that of the complainant, under intimation to the complainant.

4.7 DC also notes the fact that in one of the Application filed before Hon'ble NCLAT with respect to the same CD, NCLAT vide its order dated 01-07-2024 directed Successful Resolution Applicant to pay INR 11.49 crores towards EPFO. Further, the respondent also added the fact during the personal hearing that the SRA made full payment to EPFO, despite these dues not being part of the original Resolution Plan.

4.8 DC finds that the language used in the alleged letter lacks simplicity/clarity and has been drafted ambiguously. However, it does not have any adverse impact on the CIRP of the CD and ultimately the interest of the stakeholder (EPFO) has been taken care of. DC also notes the absence of any mala fide intent on the part of the respondent. Hence, considering the overall facts and circumstances of the case, including the successful progress of the CIRP resulting in resolution, DC takes a lenient view on the matter.

5.0 Order

5.1. Accordingly, in exercise of the powers conferred under Regulation 24(1) (c) of Byelaws of Indian Institute of Insolvency Professional of ICAI, read with clause 15(1) of the Disciplinary Policy of IIIPI, DC hereby disposes of the SCN without any adverse directions against the respondent. However, DC hereby advises the respondent should take reasonable care and be extremely careful and diligent while making any communication/ performing his duties under the Code.

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

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

Date: 17-10-2025

Place: New Delhi

CERTIFIED TRUE COPY

Sd/-

Mr. Sunil Pant, (Chairman)

CA Charanjot Singh Nanda, (Member)

Mr. Rajvir Singh, (Member)

CA Rahul Madan, (Member)

Copy to:

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