

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

DC. No. - IIIPI/DC/217/2025-26

ORDER

In the matter of Mr. Anuj Jain (Respondent) under Clause 15 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 11-10-2024 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 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.
- 2.0** The Disciplinary Committee of IIIPI (DC) issued SCN to respondent, based on the reference received from the Monitoring Committee of IIIPI including the findings in the inspection report of Inspection Authority (IA), pertaining to assignment handled by him as Interim Resolution Professional (IRP)/ Resolution Professional (RP) in the CIRP **(a) M/s Jaypee Infratech Limited**. The SCN alleged the contravention of the provisions of Section 20(2) (a), 25(2) (d), 208 (a) and (e) of the Insolvency and Bankruptcy Code, 2016, Regulations 39 and 40B of the Insolvency Resolution Process for Corporate Persons Regulation 2016, Regulation 7(2) (a), (h) and (i) of IBBI (Insolvency Professional) Regulation, 2016, read with clauses 5, 14, 16 and 19 of the Code of Conduct for Insolvency Professionals, specified under First Schedule of IBBI (Insolvency Professionals) Regulations, 2016, the IBBI Circular No. IP/005/2018 dated 16th January 2018.
- 3.0** 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 for personal virtual hearing was provided to the respondent on 21-07-2024, wherein respondent himself presented pleadings and additional submissions before the DC virtually.
- 4.0 Contravention:** - DC observed that prior to the initiation of the CIRP of the CD i.e. M/s Jaypee Infratech Limited, lenders of the CD in anticipation of commencement of the CIRP appointed nine professionals, namely [(i). CBRE- TEV Study, (ii) Singhania & Partners, (iii) Knight Frank India, (iv) TR Chaddha & Co. LLP, (v) Dun & Bradstreet, (vi) Deloitte, (vii) Knight Frank India, (viii) Mitcon, and (ix) HSBD Techserve]. Post initiation of the CIRP of the CD, the respondent continued / move forward to take services from those professionals which were appointed by the lenders. However, under the Code it is the authority of an IP to appoint such professionals, as may be required. Since the above said professionals were appointed by the lenders and not by the

respondent, the fee charged by such professionals amounting to Rs.1,50, 99,537 should not have been made part of IRPC.

DC also observed that appointment letters in respect of four professionals were not provided by respondent to IA, and no relationship disclosures were filed for any of the nine professionals, as required under the Code.

4.1 Submission by the respondent: - In response to the allegation, respondent submitted that in anticipation of the commencement of the CIRP, the lenders of JIL had selected and appointed the Consultants prior to commencement of CIRP on 09 Aug 2017, however, the delivery of service was for the CIRP period, and the deliverable was also provided after the commencement of CIRP.

4.1.1 Respondent further submitted that since the services of these consultants were integral for running the CIRP process smoothly, these consultants were retained on the same terms post commencement of CIRP by the IRP and the fee incurred on the consultants were ratified by the COC in CoC meetings as the services and subsequent reports of the consultants were received during the CIRP period. Further, the consultants/advisors were all found to be credible and selected by lenders by a process of consultation amongst themselves. The role of the lenders subsequently changed to members of CoC.

4.1.2 Respondent further submitted that though the appointment was made by IDBI bank on behalf of Joint Lenders Forum prior to CIRP, the decision to continue the services of the consultants was taken by the respondent. The respondent independently verified and confirmed the credibility and ability of the consultants/advisors, given the scale and size of Jaypee Infratech Ltd. The same can be inferred from the minutes of meeting of sixth CoC meeting held on 18 February 2018 pertaining to Forensic Audit conducted by T.R. Chaddha. The relevant extracts of the minutes are reproduced below: -

“The IRP informed the COC that as part of IRP/RP’s duties, the IBC requires the IRP/RP to review certain historical transactions of the Corporate Debtor (The relevant period is defined in the Code as two years for related party of corporate debtor and one year for others from the insolvency commencement date) to identify any preferential, undervalued, extortionate or fraudulent transaction (Section 43,45,49,66 of IBC). This is a part of the IRP/RP’s duties. The IRP confirmed that as part of his duties, he has concluded a forensic review by TR Chaddha & Co (1-4-2014 to 31-3-2017). Based on findings of forensic review and review of other expert reports and documents, IRP had identified certain transactions falling within the purview of section 43,45, 49 and 66 of the Code. Further, after due diligence and detailed deliberations on the identified transactions and giving due opportunity to the affected party to present their case, the IRP had filed for avoidance with hon’ble NCLT”.

4.1.3 Respondent further submitted that the IRP has discharged his fiduciary duties and has endeavored not to burden the Corporate Debtor with additional cost wherever possible. The

above decision of utilizing the report of Forensic audit for the purpose of transaction audit as required under the IBC, Act 2016 is one such example.

- 4.1.4** Respondent further submitted that the reports of other consultants continued during the CIRP period appointed by the Joint Lender Forum has also been utilized during the process. The respondent had provided a brief summary of the services rendered by these consultants in the final inspection report dated 28 March 2024 in order to give a glimpse of the requirement of these reports during the CIRP period. Hence, from the above submissions it is evident that the decision to continue the services of all these professionals were taken by the respondent post assessment of their requirement. It may also be mentioned that one of the largest recovery u/s 45 of IBC (“avoidance”) happened due to the efforts of the respondent and the quality professional work done by M/s T.R. Chadha (forensic consultants selected above).
- 4.1.5** Respondent further submitted that it may also be noted that the CIRP cost incurred on professionals amounting to ~INR 13.81 crore during the CIRP process of JIL was merely 0.06 % of the Resolution Value of ~INR 21,697.53 Crore. Further, the cost incurred on these other professionals is significantly lower than the cost incurred in other similar cases of CIRP and global standard. Basis the explanation iterated above, the fee incurred for the services availed during the CIRP period had been considered in CIRP cost in accordance with the Section 5(13) of the Code and Regulation 31 of the Insolvency Resolution Process for Corporate Persons Regulation 2016. Moreover, The IRP attempted to minimize IRPC by not duplicating effort.
- 4.1.6** The respondent with respect to not providing the engagement letters for the consultants being referred to in the SCN, has submitted that: -

Knight Frank India Private Limited (2 Engagement letters) – Though the appointment letters were not available, however, after assessing the requirement of the services provided by these consultants by the IRP, confirmation was taken from the CoC bank with respect to the engagement terms and the payment was processed post approval from the bank.

Deloitte Touch Tohmatsu India LLP –the respondent submitted that no expense has been incurred with respect to this engagement in the CIRP period, the same can be confirmed from the minutes of 25th CoC meeting dated 27 August 2021. Accordingly, the need for sharing EL by the CoC with the IRP didn’t arise.

Dun & Bradstreet – The respondent had inadvertently missed to share the copy of the engagement terms agreed with Dun & Bradstreet with the Inspection team.

- 4.1.7** The respondent further submitted that the Professionals were appointed prior to initiation of CIRP by the lender consortium and their services were continued during the CIRP period as per their Engagement Letter executed prior to commencement of CIRP. The disclosures were inadvertently missed by the respondent. However, the same were filed by the respondent as soon as the respondent was made aware of the non-submission of disclosure by the IIIPICAI inspection team. Please note that there is no case of any relationship of IRP or its supporting firm

with any of the consultants covered by the disclosure. The respondent requests the committee to condone the delay on late filing of the disclosures.

4.1.8 The respondent humbly denies all the contraventions cited in the SCN and submits that: -

The respondent has appointed/continued with the services of accountants, legal or other professionals as may be required from time to time post thorough assessment of their requirement, for smooth running of the CIRP process, further, all the cost incurred for such professional services have been ratified by the CoC.

The respondent has discharged his duties with utmost care and diligence and has endeavored to comply with all the laws and regulations during the CIRP process.

The respondent has abided by the Code, rules, regulations, and guidelines thereunder and the byelaws of the insolvency professional agency.

The respondent has maintained independence and conducted the CIR process without the influence of external influences and abided by the code of conduct.

The respondent has maintained physical and soft copies of the CIRP period as per the record retention requirement.

The respondent has been diligent and conducted the CIR process with care and has not acted with mala fide intentions during the process.

The respondent has endeavored to maintain all written contemporaneous records for any decision taken, the reasons for taking the decision, and the information and evidence in support of such decision. Further, the respondent was able to produce sufficient records/documents to the satisfaction of the Inspection team with respect to details as sought by the team from time to time. The disclosures were inadvertently missed by the respondent. However, the same were filed by the respondent on 22 January 2024 as per directions of the IIIPICAI inspection team. The screen shot of the same is attached for your reference. We humbly request you to condone the delay in filing.

The respondent humbly requests the committee to reconsider their observation considering the above submissions.”

4.2 Analysis & Findings: -

4.2.1 CIRP under the Code is a non-adversarial resolution process where the defaulting corporate debtor cedes control to an IP, who is responsible for managing the affairs of the company as a going concern and preserving its value. One of the duties of the RP under the Code is to act with objectivity in his professional dealings by ensuring that his decisions are made without the presence of any bias and to ensure that all costs incurred during CIRP are reasonable.

4.2.2 The allegation in para 4.0 of SCN against the respondent involves four separate issues to be dealt with. The first issue pertains to appointment of nine (9) professionals by the CoC members/

lenders prior to the initiation of CIRP, while the second issue is inclusion of fee charged by professionals appointed by CoC members, as a part of IRPC. The third issue is in respect of non-providing of engagement letters of 4 professionals, and the fourth issue pertains to non-filing of disclosure in respect of 9 professionals, mentioned as above. Since the alleged contraventions/issues with respect to appointment of (9) professionals by the CoC/lenders prior to the initiation of CIRP and inclusion of their fee as a part of IRPC are inter-related, therefore have been examined by the DC collectively.

- 4.2.3** DC notes that section 20(2)(a) and section 25(2)(d) of the Code specifically empowers the IRP and the RP respectively to appoint accountants, legal, or other professionals as may be necessary to protect and preserve the value of the property and manage the operations of the corporate debtor as a going concern. Thus, it becomes clear that the power of appointment of professionals has been conferred upon IRP/RP for running of CD's business. The relevant extract from the provisions reads as follows:

Section 20(2) (a) of the Code provides as follows:

“.... interim resolution professional shall have the authority- to appoint accountants, legal or other professionals as may be necessary;”.

Further, Section 25(2) (d) of the Code provides as follows:

“...the resolution professional shall undertake the following actions - appoint accountants, legal or other professionals in the manner as specified by Board;”

- 4.2.4** The DC notes that Section 5(13) of the Code defines the term “Insolvency Resolution Process Costs” (IRPC) as follows –

“5 (13). "insolvency resolution process costs" means—

- (a) the amount of any interim finance and the costs incurred in raising such finance;*
- (b) the fees payable to any person acting as a resolution professional;*
- (c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern;*
- (d) any costs incurred at the expense of the Government to facilitate the insolvency resolution process; and*
- (e) any other costs as may be specified by the Board.”*

Further, Regulation 31 of CIRP Regulations, 2016 provides that:

31. “Insolvency Resolution Process Costs under Section 5(13)(e) shall mean –

- (a) amounts due to suppliers of essential goods and services under Regulation 32;*
- (b) amounts due to a person whose rights are prejudicially affected on account of the moratorium imposed under section 14(1)(d);*
- (c) expenses incurred on or by the interim resolution professional to the extent ratified under Regulation 33;*

(d) expenses incurred on or by the interim resolution professional fixed under Regulation 34; and
(e) other costs directly relating to the corporate insolvency resolution process and approved by the committee.”

The term IRPC, as defined in Section 5(13) of the Code read with Regulation 31 of the CIRP Regulations, 2016, does not include expenses pertaining to the professionals appointed by CoC members/lenders of the CD.

In this regard, the words “directly relating to the corporate insolvency resolution process” used in Regulation 31(e) of CIRP Regulations, 2016 are significant. It is observed that the use of the word “directly” unequivocally means that any indirect costs shall not be considered as CIRP costs.

4.2.5 Further, Circular dated 12-06-2018 issued by IBBI in relation to CIRP costs clearly states that,

“8. It is clarified that the IRPC shall not include:

(a) any fee or other expense not directly related to CIRP;

(b) any fee or other expense beyond the amount approved by CoC, where such approval is required;

(c) any fee or other expense incurred before the commencement of CIRP or to be incurred after the completion of the CIRP;

(d) any expense incurred by a creditor, claimant, resolution applicant, promoter or member of the Board of Directors of the corporate debtor in relation to the CIRP;

(e) any penalty imposed on the corporate debtor for non-compliance with applicable laws during the CIRP;

[Reference: Section 17 (2) (e) of the Code read with circular No. IP/002/2018 dated 3rd January, 2018.]

(f) any expense incurred by a member of CoC or a professional engaged by the CoC;

(g) any expense incurred on travel and stay of a member of CoC; and

(h) any expense incurred by the CoC directly; [Explanation: Legal opinion is required on a matter. If that matter is relevant for the CIRP, the IP shall obtain it. If the CoC requires a legal opinion in addition to or in lieu of the opinion obtained or being obtained by the IP, the expense of such opinion shall not be included in IRPC.]

(i) any expense beyond the amount approved by the CoC, wherever such approval is required; and

(j) any expense not related to CIRP.”

4.2.6 The DC further notes that regulation 33 of the CIRP Regulations deals with insolvency resolution process cost. The explanation to this regulation explicitly clarifies what expenses will form part of IRPC. The explanation reads as follows:

“Explanation. - For the purposes of this regulation, “expenses” include the fee to be paid to the interim resolution professional, fee to be paid to insolvency professional entity, if any, and fee to be paid to professionals, if any, and other expenses to be incurred by the interim resolution professional.”

- 4.2.7** Thus, it is clear from the conjoint reading of the above provisions and Circular that only the expenses incurred by IRP/RP in appointing the professionals post commencement of CIRP, to the extent ratified by the CoC will be treated as IRPC and any amount or expense incurred by a member of CoC or a professional engaged by the CoC or any expenses which are not directly related to CIRP, shall not become part of IRPC. DC in the instant matter notes the submission of the respondent that in anticipation of the commencement of the CIRP, the lenders of JIL had selected and appointed the Consultants prior to commencement of CIRP on 09 Aug 2017, however, the delivery of service was for the CIRP period.
- 4.2.8** DC further notes the submission of the respondent that though the appointment was made by IDBI bank on behalf of Joint Lenders Forum prior to CIRP, the decision to continue the services of the consultants was taken by the respondent. The respondent independently verified and confirmed the credibility and ability of the consultants/advisors, given the scale and size of Jaypee Infratech Ltd.
- 4.2.9** DC also notes the submission of the respondent that he made efforts to ensure that the CIRP was conducted in a cost-effective and efficient manner, without imposing any undue financial burden on the corporate debtor. Mainly, the forensic audit report by T.R Chadha was helpful in identifying fraudulent transaction, resulting in significant recoveries u/s 45 of IBC. The total CIRP cost for professionals was approximately INR 13.81 crore which is just 0.06% of the overall resolution value of INR 21,697.53 crore. This indicates that the respondent made sincere efforts to keep the process affordable.
- 4.2.10** In view of the submission made by respondent and materials available on record DC notes that the incidence of appointing the professionals by the CoC members/lenders of the CD, prior to the commencement of CIRP, is not in consonance with section 20(2)(a) and 25(2)(d) of the Code. DC notes that the appointment of the professionals made by IDBI bank on behalf of joint lenders forum prior to the initiation of CIRP may not have resulted in any adverse outcome, however the laxity in compliance despite the large value at stake, is evident. The Respondent exceeded his authority in continuing with the services of the 9 Professionals without entering into suitable contracts with them. The existence of casual approach is notable from the continuation of the arrangement with Deloitte Touche Tohmatsu India LLP, which had no role as evident from the statement that no expense had been incurred with respect to this engagement in the CIRP.
- 4.2.11** With regard to the issue of not providing the engagement letters of 4 professionals DC notes the submissions made by respondent. DC further notes that respondent has since submitted engagement letter/CoC confirmation in 3 cases and provided explanation for not submitting engagement letter in 1 case, DC takes a lenient view.
- 4.2.12** As far as issue in respect of non-filing of relationship disclosure of nine (9) professionals appointed by IDBI bank, prior to the commencement of CIRP is concerned, DC notes that an insolvency professional is bestowed with myriad duties and thus 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 notes the submission of the respondent that the disclosures were inadvertently missed to be filed by the respondent, however, the same were filed by him as soon as the respondent was made aware of the non-submission of disclosure by the IIPICAI inspection team. DC further notes that since the disclosures have now been filed, also at the time when this lapse occurred, the implementation of the Code was in the nascent stage, and the legal jurisprudence of this new insolvency regime was evolving. In this backdrop, DC is inclined to take a lenient view.

Order

5.0 The entire CIRP hinges on the effective functioning of its duties by the IP, entrusted on him/her by the Code and Regulations. The Code of Conduct as prescribed in the IBBI (Insolvency Professional) Regulations acts as a charter of professional norms which establishes the credibility of the entire process. The acts of Insolvency Professional should therefore be in consonance with the letter and spirit of the Code Rules, Regulations made thereunder.

In view of the submissions made by the respondent and material available on record, the DC concludes that the CIRPs conducted by the respondent reflect a lack of satisfactory compliance with statutory requirements. Accordingly, in exercise of the powers conferred under Clause 24(1) (c) of Byelaws of Indian Institute of Insolvency Professionals of ICAI read with clause 15 (B) (a) of Disciplinary Policy of IIPPI, DC hereby issues a 'Admonishment' to the respondent and advises him to be extremely cautious and mindful of following provisions of the law in letter and spirit. 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.

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.
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