

ICSI Institute of Insolvency Professionals

(Disciplinary Committee)

ICSI IIP/DC/ 12/2020

7th September, 2020

ORDER

(Under Part II of Disciplinary Policy read with Clause 24(1)(a) of Bye Laws of ICSI Institute of Insolvency Professionals)

1. Background

- 1.1 This order disposes of the Show Cause Notice dated 24th July, 2020 (SCN) issued to Mr. Arun Rajabhau Joshi, a resident of 1st Floor, E-Wing, Bharat Bazar Complex, API Corner, Chikalthana MIDC, Aurangabad, Maharashtra, 431006, a professional member of ICSI Institute of Insolvency Professionals (ICSI IIP) and an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (Board) with Registration No. IBBI/IPA-002/IP-N00350/2017-2018/11000.
- 1.2 In the matter of *Govindam Metals & Alloy Pvt. Ltd.* (assignment) and *Rajit Rolling Mills Private Limited* (assignment), Mr. Arun was appointed as the Interim Resolution Professional on 17th January, 2020 and 25th February, 2020, accordingly public announcement was also made on 24th January, 2020 and 04th March, 2020. However, it was observed by the secretariat that the assignment was undertaken by Mr. Arun Rajabhau Joshi without holding valid Authorisation for Assignment.
- 1.3 ICSI IIP in exercise of its powers conferred under Bye Law 23 of the Bye Laws ICSI Institute of Insolvency Professionals, Part III of the Disciplinary Policy of ICSI Institute of Insolvency Professionals (ICSI IIP) and based on information available on record, issued a show cause notice to Mr. Arun Rajabhau Joshi on 24.07.2020.
- 1.4 Mr. Arun Rajabhau Joshi filed his reply to the Show Cause Notice on 27th July, 2020.

1.5 The Disciplinary Committee (DC) has considered the SCN, the reply to SCN, other material available on record and proceeds to dispose of the SCN in accordance with the Code and Regulations made thereunder.

2. Alleged Contravention

Mr. Arun Rajabhau Joshi was appointed as the Interim Resolution Professional on 17th January, 2020 and 25th February, 2020, accordingly public announcement was also made on 24th January, 2020 and 04th March, 2020, whereas Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016 provides :

Regulation 7A of Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016

“An insolvency professional shall not accept or undertake an assignment after 31st December, 2019 unless he holds a valid authorisation for assignment on the date of such acceptance or commencement of such assignment, as the case may be:

Provided that provisions of this regulation shall not apply to an assignment which an insolvency professional is undertaking as on-

- a) 31st December, 2019; or*
- b) the date of expiry of his authorisation for assignment.”*

3. Reply and Observations

3.1 The matter was placed before the Disciplinary Committee of ICSI IIP for further consideration.

3.2 The Disciplinary Committee observed that Mr. Arun Rajabhau Joshi in his reply submitted that the consent for two assignments was given on 30th September, 2019 and 8th November, 2019 respectively. However due to administrative problem, the CIRP started later. In view of the same there was no need to apply for AFA for these two assignments. IP has submitted that mistakes/misunderstandings on their part of the abovementioned rules and regulations may be condoned. Further, the IP submits that shall not take any further assignment as has attained the age of 70 years.

3.2 The Disciplinary Committee observed that the date of acceptance of assignment was before 31st December, 2019.

4. Order

4.1 On perusal of documents and information on record, the Disciplinary Committee is of the view that the date of commencement was 17th January and 25th February, 2020, whereas Mr. Arun Rajabhau Joshi accepted the assignment on 30th September, 2019 and 8th November, 2019.

4.2 In view of the above, the DC hereby warns Mr. Arun Rajabhau Joshi to be extremely careful, diligent, strictly act as per law and similar action should not be repeated.

4.3 Further DC, in view of Regulation 12(A) (2) (e) of Insolvency and Bankruptcy Board of India (Model Bye- Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 directed Mr. Joshi to intimate NCLT, Mumbai Bench and thereafter confirm the same to ICSI Intitute of Insolvency Professional.

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

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

4.6 Accordingly, the show cause notice is disposed of.

CERTIFIED TRUE COPY

Sd/-
MR. GOPAL KRISHNA AGARWAL
(CHAIRPERSON)

Sd/-
DR. S. P NARANG
(MEMBER)

Sd/-
CS NAGENDRA RAO
(MEMBER)