

ICSI Institute of Insolvency Professionals

(Disciplinary Committee)

ICSI IIP/DC/ 07/2020

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. Pinaki Sircar, 31/7, N.C. Chowdhury Road, Kolkata, West Bengal, 700042, 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-N00063/2017-18/10141.
- 1.2 In the matter of *Bansal Refineries Private Limited* (“assignment”), Mr. Pinaki Sircar was appointed as the Liquidator on 17th January, 2020 and accordingly public announcement was also made on 21st January, 2020. However, it was observed that the assignment was undertaken by Mr. Pinaki Sircar 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. Pinaki Sircar on 24.07.2020.
- 1.4 Mr. Pinaki Sircar failed to file his reply within the stipulated time mentioned in the SCN.
- 1.5 The Disciplinary Committee (DC) has considered the SCN and 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. Pinaki Sircar was appointed as the Liquidator on 17th January, 2020 and accordingly public announcement was also made on 21st January, 2020, without obtaining Authorization for Assignment, 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 Mr. Pinaki Sircar failed to file his reply to SCN and submit any supporting documents and therefore the date of acceptance of assignment could not be ascertained from the documents available on record.

3.2 Therefore, Disciplinary Committee observed that there has been a violation of Regulation 7A of Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016

4. Order

4.1 On perusal of documents and information on record, the Disciplinary Committee is of the view that since there was no reply by Mr. Pinaki Sircar and date of acceptance cannot be ascertained by Disciplinary Committee, therefore, the date of commencement is being considered as date of acceptance of

assignment i.e. 17th January, 2020. Mr. Pinaki Sircar has contravened Regulation 7(A) of IBBI (Insolvency Professionals) Regulations, 2016.

4.2 In view of the above, the DC hereby warns Mr. Pinaki Sircar to be extremely careful, diligent, strictly act as per law and similar action should not be repeated. Also, imposes a penalty of Rs. 10,000/- on Mr. Pinaki Sircar to be deposited by a demand draft payable in favour of the ICSI Institute of Insolvency Professionals within 30 days of the issue of this order. The Agency shall in turn deposit the said penalty amount in the Insolvency and Bankruptcy Fund.

4.3 Further, the DC directs that Mr. Pinaki Sircar shall only accept any new assignment after depositing the penalty amount imposed and after obtaining Authorisation for Assignment in view of Regulation 12A of Bye Laws of ICSI Institute of Insolvency Professionals from the date of coming into force of this Order.

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)