

**ICSI Institute of Insolvency Professionals**

**(Disciplinary Committee)**

**ICSI IIP/DC/ 05/2020**

**7<sup>th</sup> 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 24<sup>th</sup> July, 2020 (SCN) issued to Mr. Sarvesh Kashyap, a resident of Shop No - 7, DDA Market, E-Block, East of Kailash, New Delhi, National Capital Territory of Delhi, 110065, 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-N00127/2017-2018/10296
- 1.2 In the matter of *Komorebi Exports Private Limited* ("assignment"), Mr. Kashyap was appointed as the Liquidator on 5<sup>th</sup> February, 2020 and accordingly public announcement was also made on 7<sup>th</sup> February, 2020. However, it was observed by the secretariat that the assignment was undertaken by Mr. Sarvesh Kashyap 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. Sarvesh Kashyap on 24.07.2020.
- 1.4 Mr. Sarvesh Kashyap filed his reply to the Show Cause Notice on 6<sup>th</sup> August, 2020. Mr. Sarvesh Kashyap availed an opportunity of e-hearing before the DC on 25<sup>th</sup> August, 2020 along with his counsel Mr. Sameer Rastogi, where he reiterated the submissions made in his written reply.

1.5 The Disciplinary Committee (DC) has considered the SCN, the reply to SCN, oral submissions of Mr. Sarvesh Kashyap during the course of e-hearing, submissions made by him, 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. Sarvesh Kashyap was appointed as the Liquidator on 5th February, 2020 and accordingly public announcement was also made on 7th February, 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 31<sup>st</sup> 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) 31<sup>st</sup> 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. The Disciplinary Committee observed that Mr. Sarvesh Kashyap in his reply submitted that the assignment was accepted before 31<sup>st</sup> December, 2019. Further, Mr. Kashyap submitted that the acceptance for assignment was given on 5<sup>th</sup> September, 2019. The application for liquidation of CD was filed before Adjudicating Authority, Allahabad Bench on 13<sup>th</sup> September 2019 and the same was disposed of vide order dated 5<sup>th</sup> February, 2020.

3.2 The Disciplinary Committee observed that the date of acceptance of assignment was before 31<sup>st</sup> 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 5<sup>th</sup> February, 2020, whereas Mr. Sarvesh Kashyap accepted the assignment on 5<sup>th</sup> September, 2019. During the personal hearing, Mr. Sarvesh Kashyap submitted that the error committed by him was inadvertent and unintended.
- 4.2 In view of the above, the DC hereby warns Mr. Sarvesh Kashyap to be extremely careful, diligent, strictly act as per law and similar action should not be repeated.
- 4.3 Further, the DC directs that Mr. Sarvesh Kashyap shall not accept any new assignment without 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)