

**ICSI Institute of Insolvency Professionals**

**(Disciplinary Committee)**

**ICSI IIP/DC/ 02/2020**

**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 16<sup>th</sup> June, 2020 (SCN) issued to Mr. Vinod Kumar Kothari, a resident of 1006-1009, Krishna Building, 224 A.J-C. Bose Road, Kolkata West Bengal -700 017, 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-N00019/2016-2017/10033
- 1.2 In the matter of *IL&FS Portfolio Management Services Limited* (“assignment”), Mr. Kothari was appointed as the Voluntary Liquidator on 16<sup>th</sup> March, 2020 and accordingly public announcement was made on 18<sup>th</sup> March, 2020. However, it was observed by the Secretariat that the assignment was undertaken by Mr. Kothari 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. Kothari on 16.06.2020.
- 1.4 Mr. Vinod Kothari filed his reply to the Show Cause Notice on 20<sup>th</sup> June, 2020. Mr. Kothari availed an opportunity of personal hearing before the DC on 25<sup>th</sup> August, 2020 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. Kothari 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. Kothari was appointed as the Voluntary Liquidator on 16th March, 2020 and accordingly public announcement was made on 18th March, 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. Vinod Kothari in his reply submitted that the assignment was accepted before 31<sup>st</sup> December, 2019, that is, on 1<sup>st</sup> March, 2019, with the execution of the mutual mandate and this error of not obtaining AFA was not an intentional act, it was due to lack of clarity in law.

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 16<sup>th</sup> March, 2020, whereas Mr. Kothari accepted the assignment on 1<sup>st</sup> March, 2019. During the

personal hearing, Mr. Kothari submitted that the error committed by him was inadvertent and unintended based on his interpretation of law.

4.2 In view of the above, the DC hereby warns Mr. Kothari 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. Vinod Kothari 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)