

ICSI Institute of Insolvency Professionals

(Disciplinary Committee)

ICSI IIP/DC/14/2020

7th September, 2020

ORDER

(Under Part II of Disciplinary Policy read with Clause 24(2) of Bye Laws of ICSI Institute of Insolvency Professionals)

1. Background

- 1.1 This order disposes of the Show Cause Notice dated 10th June, 2020 (SCN) issued to Ms. Tanuja Jalan, a resident of B-1706, Abrol Vastu Park, Near Ryan International School, New Link Road, Evershine Nagar, Malad (West), Mumbai-400064, 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-02/IP-N00101/2017-18/10244.
- 1.2 ICSI Institute of Insolvency Professionals received a grievance/complaint on 21st February, 2020 against Ms. Tanuja Jalan from Ms. Suman Vinod Kedia, Proprietor of Credit Capital in the CIRP of Kieon Developers Private Limited for taking necessary action and to resolve the grievance/complaint.
- 1.3 The Complaint was further forwarded to Ms. Tanuja Jalan *vide* email dated 24th February, 2020 for seeking her reply on the same along with requisite documentary evidence in support of her submission.
- 1.4 The Complaint/grievance, reply of Ms. Tanuja Jalan against Complaint and other documents available on record were placed before the Grievance Redressal Committee of ICSI IIP for consideration.
- 1.5 The Grievance Redressal Committee at its meeting held through video conferencing on 23rd April, 2020, deliberated on the matter in detail and observed that the reply filed by Ms. Tanuja Jalan was inadequate and does not contain reply to the allegations in the complaint. Therefore, the Committee decided to provide an opportunity to Ms. Tanuja Jalan to provide detailed reply with supporting documents, failing which the decision shall be taken by the Committee on the basis of documents available on record.
- 1.6 As per the decision of Grievance Redressal Committee an email was sent to Ms. Tanuja Jalan on 24th April, 2020 to provide detailed reply with supporting

documents. However, Ms. Tanuja Jalan did not avail the opportunity and forwarded the previous reply.

1.7 The Grievance Redressal Committee at its meeting held through video conferencing on 11th May, 2020 deliberated upon the matter and directed the Secretariat to issue a Show Cause Notice and further referred the matter to Disciplinary Committee of ICSI IIP for disposal.

1.8 Show Cause Notice (SCN) was issued by ICSI IIP to Ms. Tanuja Jalan on 10th June, 2020. Ms. Tanuja Jalan filed her reply on 25th June, 2020 on the same.

1.9 The SCN issued, reply received from Ms. Tanuja Jalan and other documents available on record were placed before the Disciplinary Committee (DC) of ICSI IIP at its 13th Meeting for its kind consideration and disposal.

2. Allegations by Complainant

The major allegations levelled against Ms. Tanuja Jalan inter alia includes-

- i. Non dispatch/Delay in sending minutes of the first meeting of Committee of Creditors to the participants despite reminder;
- ii. Delay in verification of claim and non-communication in regard to the same despite reminders;
- iii. Rejection of claim of Rs.37,79,827/- on the basis of limitation period;
- iv. Non preparation of Information Memorandum in time prescribed by IBBI (CIRP) Regulations, 2016.

3. Submissions

3.1 Ms. Tanuja jalan submitted that there was no wilful or purposeful delay in first CoC minutes but the reasons were beyond control and for the reasons not attributable to IP and in any case the minutes are circulated now and there are no issues to its contents. Further, submits that first COC Meeting Report with Minutes and the Amended COC Report is pending for being taken on Record with Delay Condonation before the Hon'ble NCLT, Mumbai.

3.2 Ms. Tanuja Jalan denied delay in verification of claim. She submitted that it was due to lack of information, lack of filing of financial statements for several years, lack of statutory compliance, lack of any access to any assets, bank accounts, place of business or assets or details of addresses of directors or officers of corporate debtor etc. Ms. Jalan submitted that the claim was under verification and was also clarified under the first COC Meeting to Mr. Ashish

Kedia who remained present in the first COC Meeting on behalf of Ms. Suman Vinod Kedia of Credit Capital i.e. on 3rd January 2020.

3.3 Ms. Tanuja Jalan submitted that the information memorandum has not been prepared due to non-cooperation of the Corporate Debtor. The Insolvency Professional is under process of filling application with NCLT, which is pending due to lock down situation.

4. Observations

4.1 The Disciplinary Committee at its 13th meeting based upon the compliant received, the SCN issued, the reply received to SCN and other documents available on record, deliberated upon the matter and observed the following:

- Regulation 24(7) of IBBI (CIRP) Regulations, 2016 provides that the resolution professional shall circulate the minutes of the meeting to all participants by electronic means within forty eight hours of the said meeting. The first meeting of CoC was held on 3rd January, 2020. The Insolvency Professional failed to provide the date on which minutes of meeting were circulated with participants. Ms. Tanuja Jalan did not send the minutes of the first meeting of Committee of Creditors to the participants within the time as specified under Rules & Regulations.
- The claim was submitted by Ms. Suman Vinod Kedia, Proprietor of Credit Capital on 28th December, 2019 and Ms. Tanuja Jalan rejected the claim on 31st January, 2020. Regulation 13(1) of IBBI (CIRP) Regulations, 2016 provides that the interim resolution professional or the resolution professional, as the case may be, shall verify every claim, as on the insolvency commencement date, within seven days from the last date of the receipt of the claims. It was observed by the Disciplinary Committee that the Kieon Developers Private Limited, Corporate Debtor has not filed its financials to MCA since 2012.
- As per Section 25 of the Insolvency and bankruptcy Code, 2016 it is the duty of the resolution professional to prepare information memorandum. As per Regulation 36(1) of the IBBI (Corporate Insolvency Resolution Process) Regulations, 2016 the resolution professional shall submit the information memorandum in electronic form to each member of the committee within two weeks of his appointment, but not later than fifty-fourth day from the insolvency commencement date, whichever is earlier. Ms. Tanuja Jalan was appointed as Resolution Professional on 3rd January, 2020 and the insolvency commencement date of Kieon Developers Private Limited was 5th December, 2019. The last date for submission of information memorandum was 17th January, 2020. However, Ms. Tanuja Jalan have failed to prepare Information Memorandum within the stipulated period and reportedly have not done so

till date.

- Ms. Tanuja Jalan in her reply submitted that she is under process of filling application with NCLT for non-cooperation of Corporate Debtor. Further, the DC observed that e-filing is functioning before the courts, yet no application has been filed by Ms. Tanuja Jalan till date.
- The other allegations levelled against Ms. Tanuja Jalan are not substantiated.

5. Order

5.1 On perusal of documents and information on record, the Disciplinary Committee finds that Ms. Tanuja Jalan, Insolvency Professional (IBBI/IPA-02/IP-N00101/2017-18/10244) has contravened Regulation 24(7), Regulation 36(1) of IBBI (CIRP) Regulations, 2016, Regulation 7(2)(h) of IBBI (IP) Regulations, 2016 read with clauses 13 & 14 of the Code of Conduct and Section 208(2)(a), 208(2)(e), 25(g) of the Insolvency and Bankruptcy Code, 2016.

5.2 In view of the above, the Disciplinary Committee imposes a penalty of Rs.10,000/- on Ms. Tanuja Jalan 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 ICSI IIP shall in turn deposit the said penalty amount in the Insolvency and Bankruptcy Fund.

5.3 Further, as submitted by Ms. Tanuja Jalan about non-co-operation of Corporate Debtor, the DC hereby advise Ms. Tanuja Jalan to file an application in terms of section 19(2) of the IBC at the earliest.

Therefore, the show cause notice is disposed of with aforesaid direction.

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

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

CERTIFIED COPY

Sd/-

MR. GOPAL KRISHNA AGARWAL
(CHAIRPERSON)

Sd/-

DR. S. P NARANG
(MEMBER)

Sd/-

CS NAGENDRA RAO
(MEMBER)