

ICSI Institute of Insolvency Professionals

(Disciplinary Committee)

ICSI IIP/DC/ 03/2020

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 22nd June, 2020 (SCN) issued to Mr. Ajay Kumar, a resident of A. Kumar & Associates, I/J-1, First Floor, Chandi Vyapar Bhawan, Exhibition Road ,Patna, Bihar, 800001, 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-N00354/2017-2018/11004.
- 1.2 In the matter namely '*Sambodhi Healthcare Private Limited*' (assignment) and '*Modern Cold Storage Limited* (assignment), Mr. Ajay Kumar was appointed as the Voluntary Liquidator on 3rd March and 16th March, 2020 and accordingly public announcement was made on 8th March & 16th March, 2020. However, it was observed by the Secretariat that the assignment was undertaken by Mr. Ajay Kumar 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. Ajay Kumar on 22.07.2020.
- 1.4 Mr. Ajay Kumar filed his reply to the Show Cause Notice on 4th August, 2020 and extended his sincere apologies.

1.5 The 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. Ajay Kumar was appointed as the Voluntary Liquidator on 3rd March and 16th March, 2020 and accordingly public announcement was made on 8th March & 16th 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 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. Ajay Kumar in his reply extended sincere apologies. Further, submitted that there was an inadvertent delay in applying for AFA.

3.3 The Disciplinary Committee observed from the documents available on record that the date of acceptance of assignment was 6th February, 2020 & 5th March 2020 respectively, which is in violation of Regulation 7(A) of IBBI (Insolvency Professionals) Regulations, 2016.

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 3rd March & 16th

March, 2020, whereas Mr. Ajay Kumar accepted the assignment on 6th February, 2020 & 5th March 2020 which was after 31st December 2019. Mr. Ajay Kumar has contravened Regulation 7(A) of IBBI (Insolvency Professionals) Regulations, 2016.

4.2 In view of the above, the DC hereby warns Mr. Ajay Kumar 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. Ajay Kumar 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 The DC directs that Mr. Ajay Kumar 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)