

**ICSI Institute of Insolvency Professionals**

*(Disciplinary Committee)*

ICSI IIP/DC/01/2024

21<sup>st</sup> February, 2024

**ORDER**

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

**1. Background**

This order disposes of the Show Cause Notice dated 8<sup>th</sup> August, 2023 (SCN) issued to Mr. Avinash Atmaram Bagul, D/101, Shiv Chhaya, Eksar Road, Borivali, West Mumbai Maharashtra-400091, a professional member of ICSI Institute of Insolvency Professionals (ICSI IIP) and an Insolvency Professional registered with the Insolvency and Bankruptcy Board of India (Board) with Registration No. IBBI/IPA-002/IP-N00492/2017-2018/11735.

In the matter of Vinked Cloths Private Limited (“assignment”), Mr. Avinash Atmaram Bagul was appointed as the Voluntary Liquidator on 7<sup>th</sup> January, 2023 and accordingly public announcement was also made on 9<sup>th</sup> January, 2023. However, it was observed by the Secretariat that the assignment was undertaken by Mr. Avinash Atmaram Bagul without holding valid Authorisation for Assignment.

The matter was placed before the Monitoring committee in its meeting dated 31<sup>st</sup> July, 2023 and after deliberations, SCN was issued on 8<sup>th</sup> August, 2023. Mr. Avinash Atmaram Bagul sent his reply to the SCN through e-mail dated 9<sup>th</sup> August, 2023.

The SCN along with the reply and supporting documents were placed before the Disciplinary Committee of ICSI IIP for its disposal in accordance with the Code and Regulations made thereunder. Mr. Avinash Atmaram Bagul availed an opportunity of e-hearing before the DC on 3<sup>rd</sup> February, 2024.

The DC has considered the SCN, the reply to SCN, submissions of Mr. Avinash Atmaram Bagul (“IP”), other material available on record.

**2. Alleged Contravention, Submissions, Analysis and Findings**

The contravention alleged in the SCN and submissions by the IP are summarized as under:

**CONTRAVENTION**

The IP undertook voluntary liquidation assignment on 7<sup>th</sup> January, 2023 and public announcement was made on 9<sup>th</sup> January, 2023 without holding valid Authorisation for assignment (AFA).

No application for AFA was made by him before ICSI Institute of Insolvency Professionals before undertaking the assignment.

As per Regulation 7A of Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016

**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. *31st December, 2019; or*
- b. *the date of expiry of his authorisation for assignment.*

**Regulation 2(1) of Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016**

*(a) “assignment” means any assignment of an insolvency professional as interim resolution professional, resolution professional, **liquidator**, bankruptcy trustee, authorised representative or in any other role under the Code;*

*(aa) “Authorisation for assignment” means an authorisation to undertake an assignment, issued by an insolvency professional agency to an insolvency professional, who is its professional member, in accordance with its bye-laws;*

**Section 5(18) of the Insolvency and Bankruptcy Code, 2016**

*“Liquidator” means an insolvency professional appointed as a liquidator in accordance with the provisions of Chapter III or Chapter V of this Part, as the case may be;*

*Chapter V deals with Voluntary Liquidation of Corporate Persons.*

Accordingly, ICSI IIP made the prima facie opinion that the IP has not complied with Regulation 7A of Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

**Submissions made by the IP**

The IP submitted that he is a qualified Company Secretary in practice and provide advisory services for secretarial and other legal matters. He enrolled himself with ICSI Institute of Insolvency Professionals on December 4, 2017. This was his first assignment of voluntary liquidation and application for Authorisation for assignment was inadvertently missed. And he apologized for the same.

He further mentioned that due and reasonable care shall be taken for undertaking future assignments and an application for the same would be made to ICSI institute of Insolvency Professionals before taking up any assignment.

**Analysis and Finding**

The DC after analysing all the records and submissions, noted that the IP undertook voluntary liquidation assignment without holding valid AFA and he himself accepted the lapse.

In view of the above, the IP has not complied with Regulation 7A of Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016

**3. ORDER**

After considering the allegations in the SCN and submissions made by Mr. Avinash Atmaram Bagul in light of the provisions of the Code, Regulations and the relevant Circulars, the DC, in exercise of the powers conferred under Part III of the Disciplinary Policy of ICSI IIP observed that Mr. Avinash Atmaram Bagul have violated certain provisions of the Code and Regulations and have acted negligently.

Therefore, the DC hereby reprimands the Insolvency Professional to be extremely careful while undertaking any assignment in future and directed the following:

- i. to undergo 50 hours Pre-Registration Educational Course (PREC) to improve his understanding of the Code and the regulations made thereunder.
- ii. that the IP shall apply for issuance of Authorisation for assignment (AFA) only after completion of compliance mentioned above.

3.2 This order shall come into force after 30 days from the date of its issue.

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

CERTIFIED TRUE COPY

Sd/-

MR. GOPAL KRISHAN AGARWAL  
(CHAIRMAN)