

ICSI Institute of Insolvency Professionals
(Disciplinary Committee)

ICSI IIP/DC/03/2025

2nd April, 2025

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 3rd January, 2025 (SCN) issued to Ms. Anagha Anasingaraju, Kanjmag & Co, 1-2 Aishwarya Sankul, G.A. Kulkarni Path, Pune, Maharashtra -411038, 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-N00247/2017-18/10732.

The inspecting authority (IA) of ICSI IIP conducted online inspection of 8 (eight) assignments handled by Ms. Anagha Anasingaraju and prepared final inspection report, which was duly mailed to IP on 14th March, 2024. The final inspection report was placed before the Monitoring Committee on 16th December, 2024. The Monitoring Committee in its meeting directed the Secretariat to issue a SCN, based on the findings in the inspection report.

The SCN was issued by the Secretariat on 3rd January, 2025. Ms. Anagha Anasingaraju sent her reply to the SCN through e-mail dated 17th January, 2025.

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. Ms. Anagha Anasingaraju availed an opportunity of personal hearing before the DC on 28th February, 2025.

The DC has considered the SCN, the reply to the SCN, submissions of Ms. Anagha Anasingaraju and other material available on record.

2. Alleged Contravention, Submissions, Analysis and Findings

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

2.1 CONTRAVENTION

In the matter of **Brainer Trade And Fin-Tech Private Ltd**, during CIRP, it was observed that the IP has appointed only 1 (one) registered valuer for “Securities and Financial Assets” class, however as per Regulation 27 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Resolution Professional shall within seven days of his appointment, but not later than forty-seventh day from the insolvency commencement date, *appoint two registered valuers* to determine the fair value and the liquidation value of the Corporate Debtor in accordance with Regulation 35.

Accordingly, ICSI IIP had prima facie opinion that the IP has not complied with Regulation 27 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

Submissions made by the IP

The DC noted that the IP in his reply to SCN submitted that the CIRP commencement date was 25 July 2018. The CD did not have any assets in its books except debtors. The IP appointed one registered valuer as per the Regulations but could not identify any other valuer registered with IBBI for the SFA category in Pune. To seek advice in the matter, RP wrote an email to IBBI whether any CA could be appointed instead. The IP also sent a follow up email on the same. Unfortunately, no response was received. The registered valuer appointed has given the valuation of SFA to be Nil.

The IP also submitted that the second valuer could not be appointed since there were very few registered valuers under the SFA category registered with IBBI at that Date. It was also one of the early assignments handled by the IP. However, no prejudice has been caused to any party due to the non-availability of second valuation report, since the debtors were valued at Nil valuation.

The IP in the personal hearing sought, accepted the violation, however IP highlighted the point that valuation was NIL and it was one of the earliest assignments undertaken.

Analysis and Finding

The DC took note of that fact that in 2018, the IP could have appointed unregistered valuer for the SFA category since the requirement to appoint only registered valuers came w.e.f. 1st February, 2019.

However, the DC considers the submissions made by IP and also took note of the fact that the matter is one of the earliest assignments of IP in the year 2018 and asset valuation was NIL.

2.2 CONTRAVENTION

In the matter of Kohinoor Precision Component Limited, the Insolvency professional has not convened any stakeholder consultation committee meeting.

As per Regulation 31A(1) of Insolvency and Bankruptcy Board of India (Liquidation) Regulations, 2016,

The liquidator shall constitute a consultation committee within sixty days from the liquidation commencement date, based on the list of stakeholders prepared under regulation 31, to advise him on to advise him on the matters relating to sale under regulation 32.

Provided that the decision(s) taken by the liquidator prior to the constitution of consultation committee shall be placed before the consultation committee for information in its first meeting.

In view of the above, ICSI IIP had prima facie opinion that the IP has not complied with Regulation 31A(1) of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

Submissions made by the IP

The DC noted that the IP in his reply to SCN submitted that the Liquidation commencement date of Kohinoor Precision Component Ltd is 30 Sept 2020. In compliance with the said Regulation, the SCC was formed by the IP within the stipulated period and appropriate actions taken for facilitation of stakeholders of each class to nominate their representatives for inclusion in the SCC.

The IP also submitted that till the amendment in 2022, the said Regulation did not specify the number and frequency of the meetings of the SCC.

It was led to the discretion of the Liquidator, unless requested by members holding specified voting rights. It was only by way of the 2024 amendment, that the Regulations made it mandatory for the Liquidator to convene the meetings every month or at least once in a quarter.

She further submitted that the IP had formed the SCC and complied with the provisions of Regulation 31A. The IP, in her discretion available under the said Regulation, did not consider it necessary to call for the meeting of the SCC before the sale of the assets. All assets were sold in public auction as stipulated under Regulation 33 read with Schedule I. Appropriate reporting was made to the Adjudicating Authority in the quarterly progress reports. Further, no request for meeting was received from any of the representatives of the SCC. Accordingly, no meeting of the SCC was required to be held.

During the personal hearing sought, the IP submitted the documentary proof of informing the Stakeholders Consultation Committee through emails at different stages of liquidation and she also highlighted that no objection was raised by any of the members of Stakeholders Consultation Committee.

Analysis and Finding

The DC notes that under the Liquidation process, the SCC's role is advisory. The Liquidator is not bound to act on the SCC's recommendations but is required to consult the committee on key decisions. However, if the Liquidator makes a decision that differs from the advice given by the SCC, the Liquidator must record the reasons for doing so in writing. Accordingly, the SCC's recommendations are advisory and do not impose binding obligations on the Liquidator. The DC notes that the requirement to take the SCC's advice on the specified matters, as envisaged under Regulation 31A of the IBBI (Liquidation Process) Regulations, 2016, cannot be bypassed. This is a well-established legal principle that if a particular procedure is to be followed, it must be complied with in both letter and spirit.

The IP must have conducted the meetings of SCC; however, the DC also took note of the fact that the members of SCC were informed through emails about the progress of liquidation and no objection was raised by any of the member of SCC.

3. ORDER

After considering the allegations in the SCN and submissions made by IP 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 Ms. Anagha Anasingaraju have violated certain provisions of the Code and Regulations, however keeping a lenient view, the DC hereby issues caution to the Insolvency Professional and advise her to be extremely careful, diligent, strictly act as per law and similar action should not be repeated while performing duties in future.

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)