

ICSI Institute of Insolvency Professionals
(Disciplinary Committee)

ICSI IIP/DC/04/2025

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 Mr. Anish Gupta, 105, Lotus Business Park, Ram Baug Lane, Off S V Road, Malad (West), Mumbai Maharashtra-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-002/IP-N00285/2017-18/10843.

The inspecting authority (IA) of ICSI IIP conducted online inspection of 20 (twenty) assignments handled by Mr. Anish Gupta 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. Mr. Anish Gupta sent his reply to the SCN through e-mail dated 31st 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. Mr. Anish Gupta availed an opportunity of e- hearing before the DC on 28th February, 2025.

The DC has considered the SCN, the reply to the SCN, submissions of Mr. Anish Gupta and other materials 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

INORDINATE DELAYS IN THE PROCESSES

It was observed that

- (i) In the matter of Credit Market Services Limited, during voluntary liquidation, preliminary report was submitted in delay of 1 (one) month.

As per Regulation 9 of Voluntary Liquidation Regulations, the preliminary report is required to be submitted within 45 days from Liquidation Commencement Date.

- (ii) In the matter of IBS Forex Limited, during voluntary liquidation, preliminary report was submitted in delay of 1 (one) month.

As per Regulation 9 of Voluntary Liquidation Regulations, the preliminary report is required to be submitted within 45 days from Liquidation Commencement Date.

- (iii) In the matter of IBS Forex Limited, the voluntary liquidation case has not been closed within 1 year's period. However, no meetings of contributories were conducted.

As per Regulation 37 of Voluntary Liquidation Regulations, in case the process continues beyond, the liquidation shall call meeting(s) of contributories within 15 days from end of 12 months and at specific intervals and shall submit annual status report.

- (iv) In the matter of Riskraft Consulting Limited, during voluntary liquidation, preliminary report was submitted in delay of 1 (one) month.

As per Regulation 9 of Voluntary Liquidation Regulations, the preliminary report is required to be submitted within 45 days from Liquidation Commencement Date.

- (v) In the matter of Destimoney India Services Private Limited, the voluntary liquidation case has not been closed within 1 year's period. The Voluntary Liquidation was initiated on 5th July, 2021, however first meeting of contributories was held on 19th July, 2023.

As per Regulation 37 of Voluntary Liquidation Regulations, in case the process continues beyond, the liquidation shall call meeting(s) of contributories within 15 days from end of 12 months and at specific intervals and shall submit annual status report.

- (vi) In the matter of Dex-Vin Polymers Private Limited, there has been delay in filing of application for preferential transactions for more than 1.5 years, the IP received the auditor's report w.r.t PUF transactions in the month of May, 2021, and the application was not filed till October, 2022.

As per Section 43 of the Code, where the liquidator or the resolution professional, as the case may be, is of the opinion that the corporate debtor has at a relevant time given a preference in such transactions and in such manner as laid down in sub-section (2) to any persons as referred to in sub-section (4), he shall apply to the Adjudicating Authority for avoidance of preferential transactions and for, one or more of the orders referred to in Section 44.

- (vii) In the matter of Kandla Steel Private Limited, the preliminary report was submitted in delay of 107 days, 1st progress report was submitted in delay of 165 days, 2nd progress report was submitted in delay of 73 days, 4th progress report was submitted in delay of 113 days and 5th progress report was submitted in delay of 11 days.

As per Regulation 13 of Liquidation Regulations, the liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy five days from the liquidation commencement date.

As per Regulation 15 of Liquidation Regulations, the liquidator shall submit Progress Reports, in the format stipulated by the Board, to the Adjudicating Authority and the Board" as under- (a) the first Progress Report within fifteen days after the end of the quarter in which he is appointed; (b) subsequent Progress Report(s) within fifteen days after the end of every quarter during which he acts as liquidator; and Provided that if an insolvency professional ceases to act as a liquidator during the liquidation process, he shall file a Progress Report for the quarter up to the date of his so ceasing to act, within fifteen days of such cessation.

- (viii) In the matter of Kandla Steel Private Limited, No application for extension of Liquidation was filed by the IP even though the case was ongoing beyond 1 year.

As per Regulation 44 of Liquidation Regulations, the liquidator shall liquidate the corporate debtor within a period of one year from the liquidation commencement date, notwithstanding

pendency of any application for avoidance of transactions under Part II of the Code, before the Adjudicating Authority or any action thereof.

If the liquidator fails to liquidate the corporate debtor within one year, he shall make an application to the Adjudicating Authority to continue such liquidation, along with a report explaining why the liquidation has not been completed and specifying the additional time that shall be required for liquidation.

- (ix) In the matter of Kutch Engineering Private Limited, the preliminary report was submitted in delay of 107 days, First progress report was submitted in delay of 165 days, 2nd progress report was submitted in delay of 73 days, 4th progress report was submitted in delay of 113 days and 5th progress report was submitted in delay of 11 days.

As per Regulation 13 of Liquidation Regulations, the liquidator shall submit a Preliminary Report to the Adjudicating Authority within seventy five days from the liquidation commencement date.

As per Regulation 15 of Liquidation Regulations, the liquidator shall submit Progress Reports, in the format stipulated by the Board, to the Adjudicating Authority and the Board” as under- (a) the first Progress Report within fifteen days after the end of the quarter in which he is appointed; (b) subsequent Progress Report(s) within fifteen days after the end of every quarter during which he acts as liquidator; and Provided that if an insolvency professional ceases to act as a liquidator during the liquidation process, he shall file a Progress Report for the quarter up to the date of his so ceasing to act, within fifteen days of such cessation.

- (x) In the matter of Kutch Engineering Private Limited, No application for extension of Liquidation was filed by the IP even though the case was ongoing beyond 1 year.

As per Regulation 44 of Liquidation Regulations, the liquidator shall liquidate the corporate debtor within a period of one year from the liquidation commencement date, notwithstanding pendency of any application for avoidance of transactions under Part II of the Code, before the Adjudicating Authority or any action thereof.

If the liquidator fails to liquidate the corporate debtor within one year, he shall make an application to the Adjudicating Authority to continue such liquidation, along with a report explaining why the liquidation has not been completed and specifying the additional time that shall be required for liquidation.

In view of the above, ICSI IIP had prima facie opinion that the IP has not complied with Section 43 of the Code, Regulation 9 & 37 of Insolvency and Bankruptcy Board of India (Voluntary Liquidation) Regulations, 2016 and Regulation 13, 15 & 44 of Insolvency and Bankruptcy Board of India (Liquidation) Regulations, 2016.

Submissions made by the IP

The DC noted that the IP in his reply to SCN submitted that:

- (i) In the matter of Credit Market Services Limited, IBS Forex Limited & Riskraft Consulting Limited, w.r.t delay in submission of preliminary report, during the period, the COVID-19 pandemic was in effect, and was diagnosed with COVID-19 on 22.02.2021. As a result, it took some time to recover, which affected and delayed most of the work.
- (ii) In the matter of IBS Forex Limited, w.r.t. no meetings of contributories, Contributories meeting was called on 22.03.2022.

- (iii) In the matter of Destimoney India Services Private Limited, w.r.t. no meetings of contributories, 1st Contributories meeting was held on 16.7.2022.
- (iv) In the matter of Dex-Vin Polymers Private Limited, w.r.t delay in filing of preferential transactions applications, initially the draft and related work was assigned to a Law firm, but due to covid-19 pandemic and lockdown they could not complete it and due to the same it was assigned to another firm, however the drafting of the said applications was not proper and thus having no other option we again had to give it to another law firm, who had thereafter prepared and filed it with the Hon'ble NCLT. The IP requested to condone the delay
- (v) In the matter of Kandla Steel Private Limited & Kutch Engineering Private Limited, w.r.t delay in filing of various reports, the delay in filing the reports was neither wilful nor deliberate. He requested to condone the delay in filing the present progress reports.
- (vi) In the matter of Kandla Steel Private Limited & Kutch Engineering Private Limited, w.r.t no application for extension of Liquidation, the liquidation proceedings were commenced on July 19, 2018. The company did not possess any assets or available funds to continue the liquidation process. Initially there were some unresolved matters with Income tax authorities. Then CIRP against primary SCC member initiated. Thereafter From 2020 to 2022, the COVID-19 pandemic severely disrupted operations. After the initiation of CIRP against the COC member, Indian Steel Corporation Ltd., no formal meetings could be convened, and no funds were made available for covering further costs and expenses. After main SCC member emerged from CIRP, application to condone delay in liquidation and application for dissolution is being filed.

Analysis and Finding

The DC took note of the submissions made by IP w.r.t contravention (i) to (iii).

However, with respect to contravention of delay in filing of application for preferential transactions with Adjudicating Authorities by more than 1.5 years in the matter of Dex-Vin Polymers Private Limited, cannot be overlooked and IP's submission of Covid19 and administrative issues cannot be accepted.

Further, the IP has caused extreme delays in submission of preliminary and progress reports with the Adjudicating Authorities in the matter of Kandla Steel Private Limited & Kutch Engineering Private Limited and simply the reply that the delays were neither wilful nor deliberate cannot be accepted.

Moreover, in the matter of Kandla Steel Private Limited & Kutch Engineering Private Limited, the Liquidation was initiated in year 2018, still no application for extension for Liquidation was filed by IP till now and no major steps have been taken in the process. No excuse can compensate the loss being occurred to the stakeholders which must have led to value erosion of assets, increased costs and which is against the very objective of the Code i.e. timely and effective resolution of distressed companies.

Accordingly, the IP has not complied with Section 43 of the Code, and Regulation 13, 15 & 44 of Insolvency and Bankruptcy Board of India (Liquidation) Regulations, 2016.

2.2 CONTRAVENTION

DISCREPANCIES IN APPOINTMENT OF REGISTERED VALUERS

- (i) In the matter of Vidyasagar Learning Private Limited, details of registered valuers appointed could not be ascertained.

M/s Orbit Consultants & Valuers and M/s Sadashiv Nargundkar & Associates were mentioned as the registered valuers appointed in the CoC minutes, however no appointment letter was

found in records. Further, their names cannot be found in the list of registered valuer entities available at IBBI website.

One appointment letter in the name of Mr. Manoj Kumar Sharma was found in records. In the appointment letter, in few places it was mentioned that he is appointed for plant and machinery and in few places, it was mentioned that he was appointed for land and building.

Correct and complete details w.r.t appointment of registered valuers cannot be found. Moreover, details of payment of fees also cannot be ascertained.

As per Regulation 27 of CIRP Regulations,

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:

Provided that the following persons shall not be appointed as registered valuers, namely:

(a) a relative of the resolution professional;

(b) a related party of the corporate debtor;

(c) an auditor of the corporate debtor at any time during the five years preceding the insolvency commencement date;

or

(d) a partner or director of the insolvency professional entity of which the resolution professional is a partner or director”.

- (ii) In the matter of Alfaras Infra Projects Private Limited, fees of valuers had been mentioned in the cost disclosure, however no records of appointment of valuers had been mentioned in the minutes or no appointment letters had been found.

Wrong information was submitted with the regulatory authorities.

As per clause 11 & 12 of Code of conduct of IPs,

An insolvency professional must inform such persons under the Code as may be required, of a misapprehension or wrongful consideration of a fact of which he becomes aware, as soon as may be practicable.

An insolvency professional must not conceal any material information or knowingly make a misleading statement to the Board, the Adjudicating Authority or any stakeholder, as applicable.

In view of the above, 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 and Clause 11 & 12 of Code of conduct for IPs as per Regulation IBBI (Insolvency Professionals) Regulations, 2016.

Submissions made by the IP

The DC noted that the IP in his reply to SCN submitted that in the matter of Vidyasagar Learning Private Limited, individual valuers were appointed namely Avinash Pandey (Plant & Machinery), Ranjit Pal (Plant & Machinery), Manoj Sharma (Land & Building) & Vikas Kamre (Land & Building). The payment was made to Mr. Ranjit Pal and w.r.t other valuers since, signed valuation reports were not provided, the amount was retained and the same will be deposited in IBBI Liquidation account.

In the matter of Alfara's Infra Projects Private Limited, CoC in its 1st COC meeting had proposed name of Mr. Abhay Narayan Manudane having Registration No. IBBI/001/IPP0054/ 2016-17/10128 as the Resolution Professional in place of Mr. Anish Gupta, current IRP. The IP continued to work as deemed RP till the appointment of the new RP i.e Mr. Abhay N Manudane was approved by the NCLT, Mumbai bench. The said appointment of Mr. Abhay N Manudane was confirmed on 12.07.2019 by the Hon'ble Adjudicating Authority. The valuers were appointed for Valuation of one specific asset of the Corporate Debtor at TATA AVEZA in Mulund, which needed to be urgently sold considering the risk involved there. Accordingly, their appointment was done prior to publishing e-auction notice for sale of the assets.

Analysis and Finding

The DC took note of the submission made by IP in the matter of Vidyasagar Learning Private Limited.

However, w.r.t Alfara's Infra Projects Private Limited, from the records made available by IP with reply to SCN, M/s Orbit Consultants and Valuers were appointed which is not a registered valuer entity as per the IBBI registered valuer list. Further, for each class of assets, 2 valuers were to be appointed. Though, the IP appointed one valuer that too unregistered.

Accordingly, the IP has not complied with Regulation 27 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Clause 11 & 12 of Code of conduct for IPs as per Regulation IBBI (Insolvency Professionals) Regulations, 2016.

2.3 CONTRAVENTION

APPOINTMENT OF UNREGISTERED VALUERS

- (i) In the matter of Dex-Vin Polymers Private Limited,

M/s Orbit Consultants and valuers were appointed on 14.07.2021, however they were not a registered valuer entity with IBBI.

The details of individual valuers appointed by Orbit for conducting valuation were:

- a) Mr. Ranjeet Pal
- b) Mr. Manoj Kumar Sharma
- c) Mr. Ravi Jain

As per the information received from IP, the payment of Rs.1,99,900/- was made to Orbit Consultants and Valuers.

Accordingly, Unregistered Registered valuer entity has been appointed by the IP and payment was also been made to them.

As per Regulation 27 of CIRP Regulations,

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:

Provided that the following persons shall not be appointed as registered valuers, namely:

- (a) a relative of the resolution professional;*
- (b) a related party of the corporate debtor;*

(c) an auditor of the corporate debtor at any time during the five years preceding the insolvency commencement date;

or

(d) a partner or director of the insolvency professional entity of which the resolution professional is a partner or director”.

As per IBBI circular dated 17th October, 2018,

Every valuation required under the Code or any of the regulations made thereunder is required to be conducted by a ‘registered valuer’, that is, a valuer registered with the IBBI under the Companies (Registered Valuers and Valuation) Rules, 2017. It is hereby directed that with effect from 1st February, 2019, no insolvency professional shall appoint a person other than a registered valuer to conduct any valuation under the Code or any of the regulations made thereunder.

- (ii) In the matter of Vijaygroup Realty LLP, as per the CoC minutes, details of M/s Orbit Consultants was mentioned as registered valuers for Plant and Machinery. However, appointment letter of Mr. Avinash was found in records. The IP submitted that appointment letter was issued to Orbit, however in its appointment letter name of Mr. Avinash was mentioned.

Orbit Consultant is not the registered valuer entity registered with IBBI. The details to whom the payment was made could not be ascertained as RP was replaced and till that time, valuation was not completed.

As per Regulation 27 of CIRP Regulations,

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:

Provided that the following persons shall not be appointed as registered valuers, namely:

(a) a relative of the resolution professional;

(b) a related party of the corporate debtor;

(c) an auditor of the corporate debtor at any time during the five years preceding the insolvency commencement date;

or

(d) a partner or director of the insolvency professional entity of which the resolution professional is a partner or director”.

As per IBBI circular dated 17th October, 2018,

Every valuation required under the Code or any of the regulations made thereunder is required to be conducted by a ‘registered valuer’, that is, a valuer registered with the IBBI under the Companies (Registered Valuers and Valuation) Rules, 2017. It is hereby directed that with effect from 1st February, 2019, no insolvency professional shall appoint a person other than a registered valuer to conduct any valuation under the Code or any of the regulations made thereunder.

In view of the above, 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 and IBBI circular dated 17th October, 2018.

Submissions made by the IP

The DC noted that the IP in his reply to SCN submitted that in the matter of Dex-Vin Polymers Private Limited, individual valuers were appointed. All these valuers were working in association with valuers in class which was categorically evident on a bare perusal of the appointment letters. Each Registered valuer had mentioned their individual Registration Numbers in the Report. It was also mentioned in the appointment letter that valuation should be done by each class of registered valuers for each class of assets. IP again confirmed that no unregistered person was appointed as registered valuers.

Further, in the matter of Vijaygroup Realty LLP, the IP submitted that Avinash Pandey having registration no. IBBI/RV/04/2019/11445 was appointed who was associated with Orbit Consultant. That letter issued to orbit was initial confirmation and thereafter separate letter was issued to Avinash Pandey.

Analysis and Finding

The DC notes that in the matter of Vijaygroup Realty LLP, as informed by IP that Avinash Pandey, a registered valuer was appointed, however details of payment made cannot be ascertained. A lenient view may be taken.

Further, in the matter of Dex-Vin Polymers Private Limited, payment was made to M/s Orbit Consultants and Valuers amounting to Rs. 1,99,900/- which is an unregistered valuation firm.

Accordingly, the IP has not complied with Regulation 27 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Clause 11 & 12 of Code of conduct for IPs as per Regulation IBBI (Insolvency Professionals) Regulations, 2016.

2.4 CONTRAVENTION

NEGLIGENCE IN PERFORMANCE OF DUTIES

- (i) In the matter of Vidyasagar Learning Private Limited, the Insolvency Professional did not mention the correct nature of creditors (financial/operational) in all the documents.

In some documents, their nature was mentioned as Financial and, in some documents, they were mentioned as Operational.

The correct nature of creditors could not be ascertained.

As per clause 2 of Code of conduct for IPs,

An insolvency professional must not misrepresent any facts or situations and should refrain from being involved in any action that would bring disrepute to the profession.

As per clause 11 of Code of conduct for IPs,

An insolvency professional must inform such persons under the Code as may be required, of a misapprehension or wrongful consideration of a fact of which he becomes aware, as soon as may be practicable.

As per clause 12 of Code of conduct for IPs,

An insolvency professional must not conceal any material information or knowingly make a misleading statement to the Board, the Adjudicating Authority or any stakeholder, as applicable.

- (ii) In the matter of Vidyasagar Learning Private Limited, the Insolvency Professional submitted the misleading information with respect to non-cooperation by the corporate debtor.

As per clause 12 of Code of conduct for IPs,

An insolvency professional must not conceal any material information or knowingly make a misleading statement to the Board, the Adjudicating Authority or any stakeholder, as applicable.

- (iii) In the matter of Vijaygroup Realty LLP, there was no standard procedure for conducting the voting during CoC meetings by the IP.

In first CoC meeting as per agenda number 10, it was decided to go for e-voting as per the prescribed procedure under the Regulations. However, the IP opted for e-voting through emails and not through e-voting mechanism.

Further, in 3rd CoC meeting, voting through e voting platform was used.

As per clause 10 of code of conduct of IPs,

An insolvency professional must maintain and upgrade his professional knowledge and skills to render competent professional service.

In view of the above, ICSI IIP had prima facie opinion that the IP has not complied with Clause 2, 10, 11 and 12 of Code of conduct for IPs as per Regulation IBBI (Insolvency Professionals) Regulations, 2016.

Submissions made by the IP

The DC noted that the IP in his reply to SCN submitted that in the matter of Vidyasagar Learning Private Limited, there were some typing errors in the documents.

Further, in the matter of Vijaygroup Realty LLP, in the 1st COC meeting, agenda item no. 10, it was decided to approve through voice voting. In other COC meeting voting were taken through e-voting options. The members of the COC unanimously decided to take e-voting through email option and thus honoring the same the required agenda was voted through email. Pursuant to the 2nd COC meeting the number of COC members increased to 56, thus it was decided to take e-voting through e-voting platform. The above said act was done as per the majority decision of the COC.

Analysis and Finding

The DC took note of the submission made by IP in the matter of Vijaygroup Realty LLP. A lenient view may be taken.

However, in respect to, Vidyasagar Learning Private Limited, changing the category of creditors i.e. financial creditors were written as operational and *vica-versa* is not expected from seasoned

Professionals. Moreover, giving misleading information to the stakeholders and terming it as typing error is gross negligence on part of insolvency professionals.

Accordingly, the IP has not complied with Clause 2, 11 and 12 of Code of conduct for IPs as per Regulation IBBI (Insolvency Professionals) Regulations, 2016.

2.5 CONTRAVENTION

ENGAGEMENT OF PROFESSIONALS NOT APPROVED BY COC

In the matter of H & V Engineering and Constructions Private Limited, In 1st and 2nd CoC meeting, the appointment of M/s GIS NPA and M/s Fair Law was not approved, still the Insolvency Professional continued to undertake their services and they also attended the CoC meetings. Some invoices were also found in records related to these professionals.

As per CIRP Regulations, the fees paid to professionals shall be approved by the CoC and only such fees will be included in the CIRP cost which is approved.

The inspecting authority could not ascertain the fees paid to them as complete bank statements have not been provided by the IP.

As per Regulation 33 of CIRP Regulations,

- (1) The applicant shall fix the expenses to be incurred on or by the interim resolution professional.*
- (2) The Adjudicating Authority shall fix expenses where the applicant has not fixed expenses under sub-regulation (1).*
- (3) The applicant shall bear the expenses which shall be reimbursed by the committee to the extent it ratifies.*
- (4) The amount of expenses ratified by the committee shall be treated as insolvency resolution process costs.*

Explanation. - For the purposes of this regulation, "expenses" include the fee to be paid to the interim resolution professional, fee to be paid to insolvency professional entity, if any, and fee to be paid to professionals, if any, and other expenses to be incurred by the interim resolution professional.

As per Regulation 34 of CIRP Regulations,

The committee shall fix the expenses to be incurred on or by the resolution professional and the expenses shall constitute insolvency resolution process costs.

Explanation. - For the purposes of this regulation, "expenses" include the fee to be paid to the resolution professional, fee to be paid to insolvency professional entity, if any, and fee to be paid to professionals, if any, and other expenses to be incurred by the resolution professional.

In view of the above, ICSI IIP had prima facie opinion that the IP has not complied with Regulation 33 and 34 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 CoC members had ongoing discussions regarding the RP's fees from the first CoC meeting itself. The fees were finally approved during the 3rd CoC meeting held on 06.08.2019. Despite not formally approving my appointment in any meeting, the CoC did not propose any other RP, and therefore, IP continued as the deemed RP. GIS attended the

meetings as part of my team. The CIRP was a complicated process and cannot be managed by a single individual, and the involvement of a professional team was necessary. Hence, GIS professionals contributed as part of the RP's team. No invoice was raised by GIS since they were not formally appointed by the CoC. However, the CoC later approved Fair Law on a case-by-case basis. The fees paid to professionals were those duly approved by the CoC members.

Analysis and Finding

The DC took note of the submissions made by IP.

2.6 CONTRAVENTION

In the matter of Vidyasagar Learning Private Limited, Non-disclosure undertakings from the CoC members were not obtained by the IP.

As per Regulation 35(2) of CIRP Regulations,

After the receipt of resolution plans in accordance with the Code and these regulations, the resolution professional shall provide the fair value, the liquidation value and valuation reports to every member of the committee in electronic form, on receiving an undertaking from the member to the effect that such member shall maintain confidentiality of the fair value, the liquidation value and valuation reports and shall not use the information contained in the valuation reports to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of section 29.

As per Regulation 36(4) of CIRP Regulations,

The resolution professional shall share the information memorandum after receiving an undertaking from a member of the committee to the effect that such member or resolution applicant shall maintain confidentiality of the information and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of Section 29.

In view of the above, ICSI IIP had prima facie opinion that the IP has not complied with Regulation 35(2) & 36(4) 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 IM was prepared and informed to the COC members in the COC Meeting held on 11.12.2021 and informed them to provide NDA Agreement so that the copy of IM could be circulated to them. Only one COC member Mr. Vakarahmed Khan provided the NDA, other COC members did not provide the NDA.

Analysis and Finding

The DC took note of the submissions made by IP.

ORDER

After considering the allegations in the SCN and submissions made by Mr. Anish Gupta 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. Anish Gupta have made gross violations of various provisions of the Code and Regulations and have acted extremely negligently in forming the duties.

Therefore, the DC hereby Reprimands the Insolvency Professional and directs the following:

- i. The membership of Insolvency professional shall stand suspended for one year from the date of issuance of show cause notice by ICSI IIP.
- ii. Levy of penalty of Rs. 2,00,000/- (Rupees Two Lac only) for contravention of the Code, its Regulations and Circulars and deposit the same 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 Fund constituted under Section 222 of the Code.
- iii. IP to undergo 50 hours physical Pre-Registration Educational Course (PREC) to improve his understanding of the Code and the Regulations made thereunder.

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)