

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 7th July, 2025 (SCN) issued to Mr. Milind Kasodekar, 3rd Floor, Satyagiri Apartments 77, Vijayanagar Colony, 2147, Sadashiv Peth, Pune, Maharashtra-411030, 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-N00116/2017-18/10285.

A grievance was received against Mr. Milind Kasodekar through Insolvency and Bankruptcy Board of India on 28.01.2025 and the Grievance redressal committee referred the matter to the Disciplinary Committee on 19.03.2025. The letter issued by the GRO of ICSI IIP, reply of the IP and other relevant documents were placed before the Disciplinary committee in its meeting held on 18th June, 2025 and the committee decided to issue the SCN and the SCN was issued.

The SCN was issued by the Secretariat on 7th July, 2025. Mr. Milind Kasodekar sent his reply to the SCN through e-mail dated 28th July, 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. Milind Kasodekar availed an opportunity of e-hearing before the DC on 21st October, 2025 along with his legal counsel M/s Madaan Law Offices represented by Mr. GP Madaan.

The DC has considered the SCN, the reply to the SCN, submissions of Mr. Milind Kasodekar 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 **Shaila Clubs & Resorts Private Limited**, during CIRP, it was observed that the Insolvency Professional has accepted the claim of “Savannah Lifestyle Private Limited” (“Savannah”) as unsecured financial creditor on the basis of only borrowing agreement without any financial statement evidencing the debt. However, as per Regulation 8(2)(b) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“CIRP Regulations”),

The existence of debt due to the financial creditor may be proved on the basis of –

- (a) the records available with an information utility, if any; or*
- (b) other relevant documents, including -*
 - i. a financial contract supported by financial statements as evidence of the debt;*
 - ii. a record evidencing that the amounts committed by the financial creditor to the corporate debtor under a facility has been drawn by the corporate debtor;*
 - iii. financial statements showing that the debt has not been paid; or*
 - iv. an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any.*

Further, as per Regulation 10 of CIRP Regulations, *the IRP or the RP, as the case may be, may call for such other evidence or clarification as he deems fit from a creditor for substantiating the whole or part of its claim.*

Moreover, as per Regulation 12 of CIRP Regulations, *a creditor shall submit claim **with proof** on or before the last date mentioned in the public announcement and as per Regulation 13 of CIRP Regulations, the IRP or the RP, 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, and thereupon maintain a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it.*

Accordingly, ICSI IIP had prima facie opinion that the IP has not complied with Regulation 8, 10, 12 and 13 of CIRP Regulations.

Submissions made by the IP

The IP submitted that Savannah submitted total claim of Rs. 181,39,85,733/-, however out of the total claimed amount principal of Rs. 5,00,00,000/- was accepted and the interest component was rejected. The principal amount was accepted on the basis of borrowing agreement dated 28th January, 2009 which was entered between the Corporate Debtor & Savannah. The IP submitted that he requested the suspended management to provide necessary records multiple times to verify the claim but no material information was furnished. Moreover, instead of providing the information, IA 780 of 2022 was preferred before the NCLT by the suspended Management challenging the claim of Savannah. In the IA, it was alleged that the signature of one of the late directors were forged and the financial statements of the CD do not reflect the liability of the corporate debtor in terms of the claim of Savannah.

Though the financial statements of the corporate debtor disclosed an aggregate amount of unsecured loans, no breakup was provided to identify the lenders and whether Savannah was one of them. Hence, it was not possible for the Insolvency professional to correlate or exclude Savannah from the total unsecured loans in the accounts. As per Regulation 10 of CIRP Regulations, he called upon Savannah to furnish additional documentation and in the absence thereof the partial claim of Rs. 5 Crore (principal amount) was admitted.

The IP further submitted that he performed the duties in accordance with the Law and within the timeframe as permitted in the Regulations specifically Regulation 13 of CIRP regulations. Moreover, the claim was supported by borrowing agreement, which was duly executed by the corporate debtor and Savannah and was a valid & subsisting document not declared void by any competent Court or Tribunal.

The IP also submitted that as per Regulation 8 of CIRP Regulations, it is the FC who has to prove the existence of debt by submitting the relevant documents and the question of RP being in violation of Regulation 8 does not arise.

The IP also submitted that Regulation 8(2)(b) is inclusive in nature and not exhaustive. Accordingly, the existence of debt due to a financial creditor may be established not only through the documents specifically mentioned in the said regulation, but also through any other material evidencing the liability of the corporate debtor towards the financial creditor. While filing the claim, Savannah, on an Affidavit made a statement on oath about non payment of debt. Such sworn statement constitutes sufficient evidence under Regulation 8(2)(b)(iii) for the purpose of claim verification and therefore it is in compliance to the provisions of Regulation 8(2)(b)(iii).

The IP also quoted that he partially admitted the claim and such claim is strictly in accordance with the Law and within the statutory framework governing the duties of Resolution professional and as per the

Law as observed by the Hon'ble NCLAT in S.rajendran, RP of PRC International Hotels Pvt. Ltd v. Jonathan Muralidarane, CA (AT)(Ins) 1018/2019.

Accordingly, the IP submitted that he was *prima facie* satisfied, based on the documents submitted and accordingly admitted the claim only to the extent supported. Thus, the actions are fully compliant with the mandate of the Code and the CIRP Regulations.

Analysis and Finding

The DC noted the submissions made by the IP and was of the view that the Insolvency Professional could have asked the bank statements evidencing the debt amount and in case of any confusion, clarifications could have been sought from the Adjudicating Authority.

The DC was of the view that the legality of the borrowing agreement was not checked and consideration flow was also not verified by the Insolvency professional. For instance, in the borrowing agreement date of agreement was mentioned as “28th January, 2009”, date of borrowing was mentioned as “on or around 11th January, 2008” and date of notarization was “21st August, 2021”. Moreover, in the whole agreement the flow of consideration is not mentioned. Accordingly, the borrowing agreement appears to be fabricated and forged.

There has been express violation of Regulation 8(2)(b) of CIRP Regulations.

2.2 CONTRAVENTION

In the matter of **Shaila Clubs & Resorts Private Limited**, it was observed that the Insolvency Professional has not informed each participant of the committee and Adjudicating Authority on assignment of debt from Vasantdada Shetkari Sahakari Bank Limited, Sangali (Secured Financial creditor) to Savannah Lifestyle Private Limited. A no objection letter was given by the IP on 16th November, 2022 to Savannah Lifestyle Private Limited and Vasantdada Shetkari Sahakari Bank Limited on the assignment of debt.

As per Regulation 28 of CIRP Regulations,

- (1) In the event a creditor assigns or transfers the debt due to such creditor to any other person during the insolvency resolution process period, both parties shall, within seven days of such assignment or transfer, provide the interim resolution professional or the resolution professional, as the case may be, the terms of such assignment or transfer and the identity of the assignee or transferee.*
- (2) The resolution professional shall notify each participant and the Adjudicating Authority of any resultant change in the committee within two days of such change.*

Accordingly, ICSI IIP had prima facie opinion that the IP has not complied with Regulation 28 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

Submissions made by the IP

The IP submitted that the financial creditors of the CD assigned its debt to VSS Bank on **11.08.2022** and Hon'ble High Court took on record the consent terms on **21.10.2022**. He was not a signatory to the said Consent Terms and was neither a party to the negotiation nor execution thereof.

In terms of Regulation 28(1), it was incumbent upon both Savannah and VSS Bank to communicate the occurrence of the assignment to the IP within seven days of the transaction. A perusal of the said

regulation shall make it evidently clear that compliance of such regulation is mandatory. It was only that the VSS Bank communicated to the IP vide an email dated **11.11.2022** and Savannah vide a letter dated **31.10.2022** intimated the RP about the assignment and requested the RP to issue an NOC.

The RP pursuant to receiving such intimations from the VSS Bank and Savannah and perusal of the necessary documents issued an NOC dated 16.11.2022. Considering the fact that the NOC was issued by the RP on 16.11.2022 and on the very next day i.e., 17.11.2022, the Complainant issued a letter to the official liquidator of the VSS Bank disputing the terms of said assignment, it becomes evidently clear that the Complainant was well aware of the fact of said assignment between the VSS Bank and Savannah Lifestyle Private Limited.

As the fact of assignment of debt to Savannah by the VSS Bank was within the knowledge of all the concerned stakeholders, no prejudice to any participant of the CoC or the suspended management including the Complainant herein could be said to occur thereof as there was no resultant change in the composition of the CoC thereof as no new member of the CoC was inducted and only the restructuring was done between the existing CoC members, i.e., Savannah and VSS Bank.

The Hon'ble NCLAT vide an order dated 01.12.2022 set aside the admission order dated 29.10.2021 (*The Order of NCLAT was reserved on 28.11.2022*) and remanded the matter back to the AA for reconsideration, as a consequence of which the CD was not under CIRP and the office of RP became functus officio.

The Suspended management (including the complainant) was well aware of such assignment and arrangement between the creditors of CD. Hence, the fact that the RP has not complied with Regulation 28 of the CIRP Regulations 2016 holds no water.

Analysis and Finding

The DC noted the submissions made by the IP and was of the view that the timelines were blurred and no prejudice has been caused to anyone.

2.3. OTHER SUBMISSIONS MADE BY THE INSOLVENCY PROFESSIONAL

The Insolvency professional submitted that the complaint was ex facie devoid of locus as Section 19(2) application was filed against the complainant and it as directed by NCLT to handover the documents to the Insolvency professional. However, despite that they continued to withhold the necessary information. Since, he has defied the judicial order and hence lacks the moral and legal standing to pursue the present complaint and hence, does not have any locus to file and prefer the present Complaint since he himself is in defiance of the Order of the Hon'ble NCLT.

He also submitted that as per Reg. 3(2) r/w Reg. 2(1)(a) of the IBBI (Grievance and Complaint Handling Procedure) Regulations 2017, a stakeholder who is aggrieved by the actions of service provider and has failed to get his grievance redressed from the concerned service provider is eligible to lodge a complaint. However, there is nothing on record which could demonstrate that the complaint ever redressed his grievance with the IP prior to the filing of instant complaint. Therefore, the complainant doesn't satisfy the requirement of being 'aggrieved person.'. Moreover, as per Regulation 3(4) of the IBBI (Grievance and complaint handling procedure) Regulation 2017, provides a Complaint must be filed with the Board within 45 days from the occurrence of cause of action. The proviso to the said regulation further provides that the complaint can be filed with delay, if there are sufficient reasons for delay, but such period shall not exceed 30 days, but in this present matter, the complaint filed only in month of October, 2024 almost after one and half year after alleged cause of action, rendering the complaint barred by limitation. In view of the above, the complaint is clearly barred by limitation and therefore consequential show cause notice issued on the basis of time barred complaint is also without jurisdiction and is liable to be withdrawn.

Further, other submissions include non-disclosure by the complainant that CIRP was first set aside by the Hon'ble NCLAT vide Order dated 1st December, 2022, and that the Section 7 petition was subsequently withdrawn on 10th February, 2023. The Complainant had already raised the issue of Savannah's claim in IA No. 780 of 2022 before the Hon'ble NCLT. That Application was disposed of as rejected due to withdrawal of the CIRP. Thus, the Complainant cannot be permitted to pursue the same grievance in another forum and as per Section 233 of the IBC, no suit, prosecution or other legal proceeding shall lie against the Resolution Professional in respect of any action taken in good faith under the Code or the Rules and Regulations made thereunder. The IP's actions were based on available records, and in strict adherence to the regulatory timelines. Therefore, even assuming arguendo but without admitting, that an error of judgment is alleged, the protection of Section 233 would apply.

Analysis and Finding

The DC remarked that “foundation of justice remains clean” and an Insolvency Professional handles huge amount of public money which is in the hands of suspended management & CoC and if IP indulges in such practices, how the system would work. Once we are surrounded by such circumstances and IP has not been able to come clean, time barred, locus standi etc. stand pale into insignificance.

Since the conduct in question constitutes bad faith or was performed mala fide, thereby vitiating any potential protection or immunity afforded by Section 233.

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 Mr. Milind Kasodekar has not been vigilant in performing the duties as envisaged under the Code.

Therefore, the DC directs the following:

- i. Levy of penalty of Rs. 1,00,000/- (Rupees One Lakh only) for contravention 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.
- ii. that the Authorisation of assignment will stand suspended till the completion of compliance of above-mentioned point.

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/-

JUSTICE (RETD.) SH. M. M. KUMAR
(CHAIRMAN)