

**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**  
(Disciplinary Committee)

No. IBBI/DC/14/2019-20  
21<sup>st</sup> August, 2019

**Order**

In the matter of Mr. Rishi Prakash Vats, Insolvency Professional under regulation 11 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 read with section 220 of the Insolvency and Bankruptcy Code, 2016.

**Appearance at Hearings**

For	Represented by	
	On 26.10.2018	On 14.08.2019
Noticee	None	Mr. Rishi Prakash Vats, Self Mr. Apoorva Sarvaria, Advocate
Board	Mr. Umesh Kumar Sharma, CGM, IBBI Ms. Poonam Shukla, RA, IBBI	Mr. Umesh Kumar Sharma, CGM, IBBI Mr. Animesh Khandelwal, RA, IBBI

This order disposes of the show cause notice dated 8<sup>th</sup> September, 2018 (SCN) issued to Mr. Rishi Prakash Vats, VGC Law Firm, 19 Park Area, Karol Bagh, New Delhi - 110005. Mr. Vats is a professional member of the ICSI Institute of Insolvency Professionals and an insolvency professional (IP) registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with registration No. IBBI/IPA-002/IP-N00248/2017-2018/10733.

2. This SCN has traversed on a tortuous path as under:

2.1 On considering the consent of Mr. Rishi Prakash Vats, IP to act as the Interim Resolution Professional (IRP) of the corporate insolvency resolution process (CIRP) of M/s. Rana Global Limited, the Hon'ble Adjudicating Authority (AA), *vide* order dated 23<sup>rd</sup> March, 2018, appointed Mr. Rishi Kumar Vats as the IRP of the said CIRP. In the said order, the AA directed the IRP to file his report within the statutory period and directed the matter to come up on 25<sup>th</sup> April, 2018.

2.2 When the matter came up on 26<sup>th</sup> April, 2018 (instead of 25<sup>th</sup> April, 2018), the AA found the attitude of the IRP inexplicable. In its order dated 26<sup>th</sup> April, 2018, the AA made the following observation and directions:

*".... The IRP has taken no steps till date merely because of a typographical error in his name as Shri Rishi Prakash Vats has been typed out as Shri Rishi Kumar Vats. However, it is not denied that address namely, Suit no. 1, 19, Park Area, Karol Bagh, New Delhi-110005 or his Registration Number IBBI/IPA-002/IPN00248/2017-18/10733, E-mail ID: rpvats@vgclawfirm.com were correct. It is also inexplicable as to why the Financial Creditor has considered it fit now at this stage after more than a month to seek correction. Such a lackadaisical attitude in such proceedings is inexplicable. It would be necessary and expedient to bring it to the notice of the IBBI for an appropriate action."*

2.3 Taking note of the order dated 26<sup>th</sup> April, 2018 of the AA, the Board sought certain clarifications from Mr. Vats and the financial creditor, which had applied under section 7 of the Insolvency and Bankruptcy Code, 2016 (Code) for initiation of CIRP of M/s Rana Global Limited. After considering the response of Mr. Vats, *vide* his mails dated 13<sup>th</sup> June, 2018 and 27<sup>th</sup> July, 2018, and also the inputs of the financial creditor *vide* its email dated 18<sup>th</sup> August, 2018, the Board issued the SCN alleging certain contraventions and seeking a written reply

within 21 days of the date of the SCN and offering him an opportunity of personal hearing before this Disciplinary Committee (DC).

2.4 Thereafter, Mr. Vats filed an application before the AA seeking expunction of the observations made against him by the AA in its order dated 26<sup>th</sup> April, 2018 and a direction to the Board not to proceed in the matter against him. The AA disposed of the said application *vide* its order dated 17<sup>th</sup> September, 2018, with the following observations:

*“Vide the present application, the RP submits that the aforesaid observations made against him, be expunged as the delay was not occasioned on his part. We accept his explanation and expunge the observations made vide order dated 26<sup>th</sup> April, 2018. ....  
As nothing further survives, CA stands disposed off. Copy of the order by communicated to the IBBI Dasti.”*

2.5 Mr. Vats requested the Board to withdraw the SCN in view of the expunction of the observation, in terms of the order dated 17<sup>th</sup> September, 2018 of the AA. The Board, however, proceeded to dispose of the SCN in accordance with the law. *Vide* its letter dated 9<sup>th</sup> October, 2018, the DC offered Mr. Vats an opportunity of personal hearing on 26<sup>th</sup> October, 2018 before the DC.

2.6 Mr. Vats filed another application before the AA. The AA disposed of the said application *vide* its order dated 16<sup>th</sup> October, 2018 with the following observations:

*“Under such circumstances, the show cause notice also deserves to be recalled. Copy of this order be communicated by the Bench Officer to IBBI.”*

2.7 Mr. Vats didn't appear for the personal hearing before the DC on 26<sup>th</sup> October, 2018. Nor was there any communication from him. He did not even bring the order dated 16<sup>th</sup> October, 2018 of the AA, which was passed in disposal of his application, to the notice of the Board / DC. The Board, however, noticed the order on the website of the AA and placed the same before the DC at the hearing on 26<sup>th</sup> October, 2018. It informed the DC that the SCN indicates contraventions beyond the observations of the AA and the Board did not have an opportunity to explain the matter to the AA when the application of Mr. Vats was considered. In view of the observations of the AA, the DC, *vide* its order dated 29<sup>th</sup> October, 2018, returned the SCN to the Board for further appropriate action.

2.8 The Board filed an application to the AA seeking reconsideration of the orders dated 17<sup>th</sup> September, 2018 and 16<sup>th</sup> October, 2018, with a prayer that the SCN be allowed to be disposed of on merits in accordance with the law. After hearing the parties, the AA, *vide* order dated 5<sup>th</sup> February, 2019, made the following observations and directions:

*“.. Their (IBBI's) persistence in continuing with the disciplinary action, in the light of our accepting the reply of the RP and exonerating him, is inexplicable. We accordingly direct all disciplinary proceedings initiated by the IBBI be quashed and the matter be treated as closed.”*

2.9 Aggrieved by the order dated 5<sup>th</sup> February, 2019 of the AA, the Board filed an appeal before the Hon'ble Appellate Authority. After hearing the parties, the Appellate Authority, *vide* its order dated 11<sup>th</sup> July, 2019, observed as under:

*“3. On hearing the IBBI, we are of the view that once a disciplinary proceeding is initiated by the IBBI on the basis of evidence on record, it is for the Disciplinary Authority, i.e., IBBI to close the proceeding or pass appropriate orders in accordance with law. Such power having been vested with IBBI and in absence of any power with the Adjudicating Authority/ (National Company Law Tribunal), the Adjudicating Authority cannot quash the proceeding, even if*

*proceeding is initiated at the instance and recommendation made by the Adjudicating Authority/ National Company Law Tribunal .....*

*7. For the reason aforesaid, we set aside the last portion of the impugned order dated 5<sup>th</sup> February, 2019 relating to quashing of all disciplinary proceedings. The matter is remitted to the IBBI to pass appropriate order taking into consideration the reference of initiation of proceeding by the Adjudicating Authority as made on 26<sup>th</sup> April, 2018 and later acceptance of explanation. The 'Resolution Professional' has already been expunged and it is expected that an order of closure will be passed at an early date."*

2.10 The DC granted another opportunity of personal hearing to Mr. Vats on 14<sup>th</sup> August, 2019. Mr. Vats along with his learned counsel, Mr. Apoorva Sarvaria appeared for the personal hearing. Both refused to make submissions on merits. They demanded closure of the SCN in view of the following:

- (a) The AA has expunged its observations after accepting the explanation of Mr. Vats;
- (b) The Appellate Authority has directed closure of the SCN; and
- (c) The Board and the DC are bound by judicial orders of the AA and the Appellate Authority.

3. According to regulation 11(6) of the IBBI (Insolvency Professionals) Regulations, 2016, the DC shall endeavour to dispose of a show cause notice within a period of six months. It is unfortunate that it has taken about a year for disposal of this instant SCN. The SCN, which was issued on 8<sup>th</sup> September, 2018, is getting disposed of only today, that is, 21<sup>st</sup> August, 2019. The delay is mostly because the matter moved thrice to the AA, once to the Appellate Authority and twice to the DC. Nevertheless, the exemplary speed of all concerned in disposal of the matter needs to be appreciated:

- (a) The cause of action arose with issue of the SCN by the Board on 8<sup>th</sup> September, 2018. Thereafter, Mr. Vats moved an application, which was considered and disposed of by the AA *vide* order dated 17<sup>th</sup> September, 2018. It took only nine days from the cause of action till disposal of the matter by the AA.
- (b) Another cause of action arose with the issue of letter dated 9<sup>th</sup> October, 2018 by the Board offering Mr. Vats an opportunity of personal hearing. Thereafter, Mr. Vats moved an application, which was considered and disposed of by the AA *vide* order dated 16<sup>th</sup> October, 2018. It took only seven days from the cause of action till disposal of the matter by the AA.
- (c) The DC met on 26<sup>th</sup> October, 2018 to hear Mr. Vats. After considering the order dated 16<sup>th</sup> October, 2018 of the AA, the DC passed the order on 29<sup>th</sup> October, 2018, within three days of the meeting.
- (d) The Board moved an application on 20<sup>th</sup> November, 2018. After hearing the parties, the AA disposed of the application *vide* order dated 5<sup>th</sup> February, 2019.
- (e) The Board filed an appeal on 25<sup>th</sup> March, 2019 against the order dated 5<sup>th</sup> February, 2019. After hearing the parties, the Appellate Authority disposed of the appeal *vide* order dated 11<sup>th</sup> July, 2019.
- (f) The DC heard Mr. Vats and his learned Counsel on 14<sup>th</sup> August, 2019. It is passing this order today, within seven days of the hearing.

4. According to regulation 11(7) of the IBBI (Insolvency Professionals) Regulations, 2016, the DC shall dispose of a show cause notice by a reasoned order in adherence to principles of natural justice, and after considering submissions, if any, made by the IP. Unfortunately, Mr. Vats insists that the SCN issued to him must be disposed of differently than in the manner provided for in the law. It is important to deal with the submissions made by Mr. Vats at the hearing on 14<sup>th</sup> August, 2019.

4.1 An IP is a key institution of the insolvency regime. He is the beacon of hope for the person in financial distress and its stakeholders. He is the fulcrum of an insolvency proceeding and the link between the AA and the stakeholders. He is responsible for conduct of time-bound insolvency proceedings (resolution, liquidation and bankruptcy processes) of financially distressed persons (companies, limited liability partnerships, partnership and proprietorship firms and individuals) under the Code. While conducting a process, he acts as an officer of the Court and discharges a statutory public function. A whole array of statutory and legal duties and powers is vested in him. Given the role of an IP in the various processes under the Code, the law requires him to be a fit and proper person and he is subject to regulation and monitoring by the Board as well as of an Insolvency professional Agency (IPA). He is required to be an epitome of discipline and model for others.

4.2 The Board has a statutory duty to ensure that the IPs are competent; they abide by a Code of Conduct; and they are accountable for their services, performance and conduct. The Code mandates the Board to promote the development of, and regulate, the working and practices of, insolvency professionals, insolvency professional agencies and information utilities and other institutions. It empowers the Board to monitor performance of IPs and initiate disciplinary proceeding against an IP in case of misdemeanour by issuing a show cause notice and disposing of the same by a reasoned order.

4.3 Mr. Vats filed two applications with the AA but did not array the Board as a party. Both the applications were disposed of ex-parte without the knowledge of the Board even though the subject of both the applications was the SCN issued by the Board. This does not prove the *bonafide* of Mr. Vats. However, the Board arrayed Mr. Vats as a party in its application before the AA and in the appeal before the Appellate Authority. Both the AA and the Appellate Authority disposed of the application / appeal, after considering the reply of Mr. Vats and hearing the parties.

4.4 Mr. Vats was not aggrieved by the order dated 26<sup>th</sup> April, 2018 of the AA that found his attitude inexplicable. He found the attitude explicable only after the Board issued the SCN and sought expunction of the finding. This indicates his scant regard for the order of the AA.

4.5 Mr. Vats did not appear before the DC on 26<sup>th</sup> October, 2018. He refused to make submissions on merits, before the DC on 14<sup>th</sup> August, 2019, even after the Appellate Authority held that it is for the Board to close a disciplinary proceeding or pass appropriate orders in accordance with law. Such conduct on the part of Mr. Vats evidences his contempt of law and the authorities.

4.6 Mr. Vats insisted that the Board is bound by the judicial orders of the AA and the Appellate Authority and it cannot make independent findings/application of mind. The law nowhere requires that a show cause notice issued by the Board shall be considered by the AA / Appellate Authority first and the DC shall then adopt their findings in its orders and close the disciplinary proceeding. It does not require that in a disciplinary proceeding / for disposal of a show cause notice, the DC is bound by the orders of the AA / Appellate Authority. On the contrary, the law requires a reasoned order of the DC for disposal of a show cause notice. The DC cannot substitute its own finding / judgment by the finding / judgement of AA / Appellate authority, which has no jurisdiction in the matter. Thus, Mr. Vats made a serious attempt to derail a lawful disciplinary proceeding under the Code.

4.7 The conduct of Mr. Vats, who, being an IP, is well versed with the provisions of the Code and the regulations made thereunder regarding disciplinary proceedings against IPs, appears inexplicable. He demonstrated extreme non-cooperation and utmost indiscipline in a disciplinary proceeding, with a determination to frustrate the same.

4.8 The DC has been at the receiving end from a recalcitrant IP, as it is bound by the law to dispose of the SCN by a reasoned order following principles of natural justice and it cannot traverse beyond the SCN, while his inexplicable conduct, as noted above, is not subject matter of the SCN.

5. The DC has considered the SCN, the submissions of Mr. Vats and his learned counsel at the hearing and other material available on record and proceeds to dispose of the SCN. Since Mr. Vats refused to address contraventions pointed out in the SCN on merits, the DC has considered his responses earlier to issue of the SCN.

5.1 Mr. Vats has responded that he could not commence the CIRP as he received a copy of order dated 23<sup>rd</sup> March, 2018 of the AA by mail only on 16<sup>th</sup> April, 2018. However, he could not produce a copy of the said mail on the ground that it has been deleted from his email account due to some technical issue. The Board in turn provided evidence in the form of WhatsApp messages whereby the financial creditor sent the said order on 5<sup>th</sup> April, 2018 and interaction between Mr. Vats and the financial creditor regarding the order. The Board, therefore, stated that Mr. Vats made false submission that he received the order on 16<sup>th</sup> April, 2018 to mislead the Board while he received it on 5<sup>th</sup> April, 2018 and he did not preserve crucial records. As Mr. Vats did not contest either of these allegations, both the allegations stand established. He has, therefore, contravened regulation 7(2)(a) and (h) of the IBBI (Insolvency Professional) Regulations, 2016 read with clause 1, 2, 12, 14, 16 and 19 of the Code of Conduct thereof.

5.2 Mr. Vats has responded that the order dated 23<sup>rd</sup> March, 2018 of the AA had confirmed the appointment of Mr. Rishi 'Kumar' Vats instead of Mr. Rishi 'Prakash' Vats, which is his name. He requested the financial creditor to get the name corrected and till correction was made, he did not take any steps as IRP. It is difficult to appreciate such a stance by an IP, who had given consent to act as IRP of the CIRP. His name is correctly written in Para 6 of the said order. Though 'Rishi Kumar Vats' was written instead of 'Rishi Prakash Vats' in Para 9 of the said order, the address, registration number and e-mail were correctly written. Such a typographical error cannot be an excuse for not commencing a time-bound processes under the Code. It is perplexing that Mr. Vats himself writes his address differently and his name with different spellings. For his registration with the Board, he used: 'Mr. Rishi Prakash Vats, VGC Law Firm, 19 Park Area, Karol Bagh, New Delhi - 110005'. He is required to use his name and address, as registered with the Board, in the CIRPs conducted by him under the Code. In the instant CIRP, he has, however, used the name and address: 'Mr. Rishi Parkash Vats, Suit No.1, 19 Park Area, Karol Bagh, New Delhi - 110005'. He is enrolled as "Rishi Parkash Vats" with his IPA. For his legal practice and income tax returns, he uses: 'Rishi Parkash Vats'. In the circumstances, not commencing the CIRP on account of a typographical error at one place in the order, is unprofessional. At the least, he could have requested for change in the name as soon as he received a copy of the order on 5<sup>th</sup> April, 2018. However, in deference to the views of the AA, the DC does not wish to proceed further with this aspect.

5.3 It has been alleged that Mr. Vats requested the financial creditor to seek name correction and also change of date of admission to the date of correction of the name and such request for change of date of admission without instruction of committee is not permissible. The DC

observes that instruction of the committee is required for extension of CIRP period. In the instant case, Mr. Vats did not seek an extension of CIRP period. He merely sought that the effective date for commencement of the CIRP should be the date of correction of name, when he would be entitled to commence the CIRP. Therefore, the DC does not find any merit in this allegation.

6.1 In view of the foregoing, the DC finds that Mr. Vats-

(a) misrepresented certain facts to mislead the Board, as explained in Para 5.1 above, which has serious bearing on a time bound CIRP;

(b) displayed utter contempt of law, authority and discipline, as explained in Paras 4.3 to 4.8 above; and

(c) took shelter under a typographical error, when the corporate debtor and the stakeholders were suffering, and moratorium had come into force in a time bound CIRP.

The DC does not wish to proceed further on its finding at (b) and (c) above for the reasons explained in Paras 4.8 and 5.2 above.

6.2 In view of his conduct as explained in Para 5.1 above, the Disciplinary Committee, in exercise of the powers conferred under section 220 (2) of the Code read with sub-regulations (7) and (8) of regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016, hereby directs as under:

(i) Mr. Vats shall work for at least six months as an intern with a senior insolvency professional, to improve his knowledge and understanding of the Code and the regulations made thereunder to appreciate the importance of time in a CIRP.

(ii) Mr. Vats shall not seek or accept any assignment or render any services under the Code till he complies with the direction as at (i) above. He shall, however, continue to conduct and complete the assignments / processes he has in hand as on date of this order.

6.3 This Order shall come into force on expiry of 30 days from the date of its issue.

6.4 A copy of this order shall be forwarded to the ICSI Institute of Insolvency Professionals of where Mr. Rishi Prakash Vats is enrolled as a professional member, for monitoring implementation of Order.

6.5 A copy of this order shall be forwarded to Secretary, National Company Law Tribunal, New Delhi for information.

-Sd-

(Dr. M. S. Sahoo)  
Chairperson, IBBI

-Sd-

(Dr. Mukulita Vijayawargiya)  
Whole Time Member, IBBI

Dated: 21<sup>st</sup> August, 2019

Place: New Delhi.