

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Disciplinary Committee)

No. IBBI/DC/292/2025

24 July 2025

ORDER

This Order disposes of the Show Cause Notice (SCN) No. COMP-11012/143/2023-IBBI/851/146 dated 05.04.2024, issued to Mr. Amit Agrawal, who is a Professional Member of the ICSI Institute of Insolvency Professionals and an Insolvency Professional registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with Registration No. IBBI/IPA-002/IP-N00185/2017-18/10456.

1. Background

- 1.1 In the application filed by the Financial Creditor M/s Pragati Impex Pvt. Ltd. under Section 7 of the Insolvency and Bankruptcy Code, 2016 (Code), for initiating the CIRP of Vistar Constructions Private Limited (Corporate Debtor/ CD) the NCLT, New Delhi Bench (Adjudicating Authority/ AA) *vide* its order dated 05.08.2022 admitted the application and Mr. Amit Agrawal was appointed as the Interim Resolution Professional (IRP) to conduct the CIRP. Later, *vide* order dated 08.09.2022 of the AA, Mr. Amit Agrawal was appointed as the Resolution Professional (RP).
- 1.2 The AA *vide* its order dated 18.09.2023 took note of the conduct of Mr. Amit Agrawal and observed that:

"... ..Needless to say, the Prospective Resolution Applicants (PRAs) furnish their Resolution Plans based on the Information Memorandum (IM) prepared by the Resolution Professional, where a list of all the Assets of the Corporate Debtor is given. Since the properties situated at Dwarka (ibid) were a later discovery, they were not included in the Information Memorandum. Thus, the valuation of the newly inducted properties situated at Dwarka was not conducted by the RP, and the other PRAs were not given any chance to bid for the Corporate Debtor while keeping in mind the property situated at Dwarka being part of the asset pool of the Corporate Debtor. Had the properties at Dwarka been included/added subsequently in the IM and valuation, the Fair Market Value and Liquidation Value of the Corporate Debtor would have changed significantly to attract more Prospective Resolution Applicants to submit the Resolution Plan with higher value." "Further, through the present Resolution Plan, the ownership rights of the newly inducted Dwarka Properties (ibid), which were never part of the Information Memorandum notified by the RP, are proposed to be transferred to the SRA herein, who would be in an advantageous position

vis-à-vis the prospective bidders in rem. In our considered view, this is a material irregularity in the exercise of the powers by the Resolution Professional during the CIR Process of the Corporate Debtor”

- 1.3 The Board in the exercise of its powers under Section 218 of the Code, read with Regulations 7(1) and 7(2) of Insolvency and Bankruptcy Board of India (Inspection and Investigation), Regulations, 2017 (Inspection and Investigation Regulations), appointed an Investigating Authority (IA) to investigate the conduct of Mr. Amit Agrawal in the CIRP of the CD. Notice was served upon Mr. Amit Agrawal on 05.10.2023 as per Regulation 8(1) of the Inspection and Investigation Regulations. In response to the notice, Mr. Amit Agrawal submitted his reply *vide* email dated 18.10.2023. Based on the findings of the investigation, the investigation Report was finalized and submitted by the IA to the Board.
- 1.4 On perusal of the said investigation report, the Board formed a *prima facie* view that Mr. Amit Agrawal contravened the provisions of the Code and Regulations made thereunder and issued the SCN to Mr. Amit Agrawal on 05.04.2024. The SCN alleged contraventions of several provisions of the Code, the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 (CIRP Regulations) and the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations). The reply of Mr. Amit Agrawal to SCN was received by the Board on 19.04.2024.
- 1.5 The SCN and the response of Mr. Amit Agrawal, to the SCN was referred to the Disciplinary Committee (DC) for disposal of SCN. Mr. Amit Agrawal availed an opportunity of a personal hearing before DC on 24.10.2024 wherein he appeared with Advocate Mr. Pankaj Agrawal.

2. Alleged Contraventions, Submissions of Mr. Amit Agrawal, and Findings of the DC.

The contraventions alleged in the SCN, submissions by Mr. Amit Agrawal, and findings of the DC are summarized as follows:

2.1 Contravention: Failure to Maximize Value of Assets of CD

- 2.1.1 It was observed that Mr. Amit Agrawal had discovered some assets of the CD i.e., four units in Hotel Raddison Blue, Dwarka, when the second Form-G had already been issued, wherein the last date for submission of Expression of Interest was 21.01.2023. It was noted that 9 Prospective Resolution Applicants (PRAs) had evinced interest in the submission of the resolution plan and only 2 PRAs had subsequently submitted the resolution plans. It was further noted that the issue of discovery of assets was informed to the CoC during the 4th CoC meeting held on 04.03.2023. Mr. Amit Agrawal submitted that PRAs were provided with all the details pertaining to the newly

discovered assets. However, Mr. Amit Agrawal should have issued the fresh Form-G to provide a level playing field to all the prospective bidders instead of providing this information to the PRAs only as it could have also led to more market participation and maximizing the value of assets of the CD.

2.1.2 Clause 3 and 14 of the Code of Conduct as provided in the First Schedule of IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations) provide as under:

“3. An insolvency professional must act with objectivity in professional dealings by ensuring that his decisions are made without the presence of any bias, conflict of interest, coercion, or undue influence of any party, whether directly connected to the insolvency proceedings or not.”

“14. An insolvency professional must not act with mala fide or be negligent while performing its functions and duties under the Code. ”

2.1.3 In view of the above, the Board was of the *prima facie* view that Mr. Amit Agrawal contravened the Sections 208(2)(a) and (e) of the Code, Regulations 7(2)(a) and 7(2)(h) of the Insolvency Professionals Regulations read with Clauses 3 and 14 of the Code of Conduct as specified in the First Schedule of the IP Regulations.

Submissions by Mr. Amit Agrawal.

2.1.4 It was submitted by Mr. Amit Agrawal that after approval from the CoC, the first Form G inviting expression of interest (EOI) from the prospective bidders was published on 07.10.2022 pursuant to which 04 EOIs were received, but none of them submitted the resolution plan. Thereafter, the 2nd Form G was published on 06.01.2023 pursuant to which 05 EOIs were received on 21.01.2023. So, there were 09 PRAs.

2.1.5 Subsequent to the publication of the 2nd Form G, it came to the knowledge of Mr. Amit Agrawal that pursuant to the arbitration award confirmed in favor of the CD, as part of settlement, four units at Hotel Radisson, Dwarka, New Delhi were to be transferred in the name of the CD. This fact was informed to the CoC in the 4th CoC meeting held on 4th March, 2023 and the CoC authorized Mr. Amit Agrawal to take all the required steps to get the said four units transferred in the name of the CD.

2.1.6 Thereafter on 13.03.2023, Mr. Amit Agrawal informed the valuers of the Securities and Financial Assets about the aforesaid arbitration award in favour of the CD for getting the aforesaid four

units valued. All the 09 PRAs were informed about the discovery of the said four units by Mr. Amit Agrawal, vide e-mail dated 21.02.2023. Out of the 09 PRAs, only two PRAs submitted the resolution plan. After further negotiation, the resolution plan submitted by Masatya Technologies Pvt. Ltd. was approved by the CoC in the 7th CoC meeting. The CoC requested Mr. Amit Agrawal to take required steps to get the said 04 units registered in favour of the CD upon payment of the registration charges and stamp duty by the CD. It was further submitted that the said 4 units/assets do not find a mention in any of the balance sheets filed by the CD before the Registrar of Companies.

2.1.7 Mr. Amit Agrawal submitted that he had informed the CoC at every step about the discovery of the said units and sought requisite approvals from the CoC for entering into a settlement with the judgement debtor for execution of the sale deeds in favour of the CD for the said units and thereafter filed an appropriate application before the Hon'ble High Court of Delhi for placing such settlement on record and seeking the appropriate order.

2.1.8 Mr. Amit Agrawal submitted that Hon'ble Delhi High Court passed an order dated 24.12.2021, wherein it was noted that "*Divine Infracon Private Limited agreed to transfer Apartment Nos. 910, 923 & 923A at 9th Floor and Apartment No.1022A on the 10th Floor, situated at Hotel Radisson Blu, Dwarka in favour of Corporate Debtor*". Thereafter, on 04.03.2023, he convened the 4th meeting of the CoC and placed the agenda with respect to the discovery of assets in the form of an arbitral award in favour of the CD. In the said CoC meeting, Mr. Amit Agrawal was authorised to enter into the settlement agreement with M/s Divine Infracon Private Limited. Accordingly, Hon'ble Delhi High Court took note of the settlement agreement between the CD and Divine Infracon Private Limited and disposed of the pending litigation *vide* order dated 01.06.2023.

2.1.9 Mr. Amit Agrawal submitted that he had made all efforts to complete the ongoing CIRP within the stipulated time frame as given by Hon'ble NCLT. However, issuance of new Form G, would have crossed the extended period of CIRP as granted by Hon'ble NCLT and the COC was completely unwilling for grant of any further extension.

2.1.10 Mr. Amit Agrawal submitted that *vide* order dated 18.09.2023, the AA was pleased to reject the resolution plan and passed the following directions:

"21. In the circumstances, we have no other option but (a) to reject the present Resolution Plan; (b) direct the Resolution Professional to conduct a fresh valuation of the Corporate

Debtor's properties, inter alia, including the Unit no. 910, 923, 923A, and 1022A at 10th floor having covered area 345 Sq. Ft. forming part of the Hotel Building constructed at Plot No. 4, Dwarka City Centre, Sector-13, Dwarka, New Delhi and issue the Information Memorandum; (c) issue a fresh 'Form G' through a wide publication; and (d) complete the entire process of seeking approval of CoC, for the Resolution Plans if received, at the earliest. It is, however, made clear that the SRA of the present resolution plan will have the liberty to submit its EOI if it so wishes."

2.1.11 In compliance of the said direction, Mr. Amit Agrawal on 23.10.2023, issued fresh Form-G, i.e. 3rd Form G, for inviting the expression of interest from the various prospective resolution applicants.

2.1.12 That in response to the said Form-G, Mr. Amit Agrawal received 10 expressions of interest from various PRA's details of which are as under: -

Name of Prospective Resolution Applicant

1. M/s AKB Ventures Private Limited
2. Amrit Kumar Agrawal
3. M/s Arrow Engineering Limited & Mr. Harsh Malhotra
4. M/s Shanti G.D. Ispat & Power Private Limited
5. M/s Hynite Farms Private Limited
6. M/s Masatya Technologies Private Limited
7. M/s Nakshatra Asset Ventures Limited
8. RKG Fund-I, a Scheme of RKG Trust
9. M/s SPSS Infrastructure Private Limited
10. M/s Subhlaxmi Investment Advisory Private Limited

2.1.13 Further, on 28.11.2023 Mr. Amit Agrawal issued the revised Information Memorandum after adding said 4 Units situated at Hotel Radisson Blu, Dwarka.

2.1.14 On 04.12.2023, Mr. Amit Agrawal appointed, 4 new IBBI registered valuers (2 separate and independent valuers in 2 different classes i.e., land & building and Securities and Financial Assets) to conduct fresh valuation of the assets of the CD.

2.1.15 Mr. Amit Agrawal, submitted that the CD, had only 2 assets, namely, one basement situated at C-23, Greater Kailash – I, New Delhi and a decree/order passed by Hon'ble High Court of Delhi

wherein 4 units in Hotel Radisson Blue, Dwarka, which were to be registered in favour of the CD. The liquidation value of the said basement (as per latest valuation report obtained in terms of order dated 18.09.2023 passed by the AA) was Rs. 46,40,500/- (Rupees Forty-Six Lacs Forty Thousand Five Hundred only) and the liquidation value of the 4 units/rooms situated in Hotel Radisson Blue, Dwarka was Rs. 2,16,72,078/- (Rupees Two Crores Sixteen Lacs Seventy-Two Thousand and Seventy-Eight Only).

2.1.16 Mr. Amit Agrawal submitted that the valuation reports were prepared by the IBBI registered valuers. The valuers at S.No. 1 and 2, as given below in the table, were appointed on 21.09.2022 by him. The information pertaining to the subsequent discovery of asset was given to the valuers by him.

No	Name of Valuer	Type of Valuation	Fair Value	Liquidation Value
1.	CA Shivanand Chaudhary	Securities and Financial Assets	3,05,95,541	2,15,63,258
2.	Anukampa Jain	Securities and Financial Assets	3,05,67,752	2,10,55,134
3.	Asheesh Mittal	Land and Building	60,75,000	45,56,000
4.	Sudhir Kumar	Land and Building	67,50,000	47,25,000
Fresh Valuations as per order dated 18.09.2023 passed by Hon'ble NCLT				
5.	Subodh Kumar	Securities and Financial Assets	3,07,13,460	2,16,80,840
6.	Meena Ahuja	Securities and Financial Assets	3,06,95,599	2,16,63,316
7.	Raju Sharma	Land and Building	70,30,000	49,20,000
8.	Mahesh Kumar Durgi	Land and Building	75,00,000	56,00,000

2.1.17 Mr. Amit Agrawal further submitted that the valuer Mr. Shivanand Chaudhary shared his report on 12.05.2023, valuer Mrs Anukampa Jain shared his report on 22.05.2023, valuer Mr. Asheesh Mittal shared his report on 19.04.2023, valuer Mr. Sudhir Kumar shared his report on 14.03.2023. Both valuers (Securities and Financial Assets) have considered the value of Arbitral Award/Decree in their valuation report under head of trade receivables as mentioned in balance sheet/record of CD. Information with respect to subsequent discovery of asset was given to valuers

on 13.03.2023. Valuers have considered the value of the Arbitral Award/Decree in their valuation report. Once assets were discovered by the RP, the valuer so appointed had also considered the value of the arbitral award/decreed under the head of trade receivables only and the valuations were conducted accordingly. As per the existing norms and standards of valuation, if no valid justification qua the amount mentioned under head of trade receivables could not have provided by the RP to the valuers then valuer would have presumed the value under such has head to be “zero” in absence of any specific information and no value could be ascertained under the valuation report.

2.1.18 That out of the above mentioned 10 PRAs, Mr. Amit Agrawal received the resolution plans from only 2, PRAs, namely M/s Masatya Technologies Private Limited, from Delhi and M/s. Shanti GD Ispat & Power Private Limited from Raipur, Chhattisgarh.

2.1.19 Despite the publication of the Fresh Form-G, the fresh valuation of assets of the CD and the invitation of the fresh resolution plans, no material change occurred in the valuation offered under the resolution plans submitted by the PRAs. The Resolution Plan value offered after publication of the 2nd and the 3rd Form G are as under:

First Round (When Resolution Plan rejected by Hon’ble NCLT)

Name of Prospective Resolution Applicant	Amount offered in resolution plan
M/s Evalina Powertec Systems Private Limited	249 Lakhs
M/s Masatya Technologies Private Limited	267 Lakhs

Second Round (Plan is pending for approval before the Hon’ble NCLT)

Name of Prospective Resolution Applicant	Amount offered in resolution plan
M/s Shanti G.D. Ispat & Power Private Limited	200 Lakhs
M/s Masatya Technologies Private Limited	290lakhs

2.1.20 It was further submitted that in the 11th meeting of the CoC convened on 24.02.2024, the CoC approved the Resolution Plan submitted by M/s Masatya Technologies Private Limited (Second Round) and an application for the approval of said resolution plan was filed before the AA.

2.1.21 Mr. Amit Agrawal shared all the information regarding the discovery of new assets with all 09 Perspective Resolution Applicants, i.e., those who submitted an undertaking of confidentiality under the provisions of the Insolvency and Bankruptcy Code. Mr. Amit Agrawal submitted that the communications made were as follows:

21.02.2023	RP wrote an email to all 9 PRA's informing about the discovery of arbitral award, passed in favour of CD by Sole Arbitrator for recovery of certain dues and said arbitral award be treated as part of additional information of IM. (followed by 2 subsequent emails for making the typographical correction of date of IM).
28.02.2023	RP received a phone call followed by an email from PRA namely Sandeep Gupta requesting for the extension of time by 30 days for submission of resolution plan.
01.03.2023	RP received an email from PRA namely ANS industries, requesting RP to postpone the date for submission of resolution plan in absence of requisite information.
01.03.2023	Last date of Submission of Resolution Plan - No plans were received hence date was extended by 15 days on request of 2 PRA's
07.03.2023	RP wrote an email to all 9 PRA's informing and circulating the various orders passed by Hon'ble Delhi High Court.
10.03.2023	RP received an email from PRA namely ANS industries requesting for copy of judgement passed in the said litigation.
15.03.2023	2 PRA's namely, - M/s Masatya Technologies Private Limited and M/s Evalina Powertec Systems Private sought extension of 5 days to
15.03.2023	RP wrote email to all 9 PRA's informing about the Extension of date for submission of Resolution Plan to 20.03.2023.
18.03.2023	RP received a reminder email from PRA namely ANS industries, requesting for further information. He reverted and answered to

2.1.22 It was submitted that Mr. Amit Agrawal never acted in any biased, under coercion, interest or any undue influence of any of the stakeholders in discharging its professional duties as envisaged

under the Insolvency and Bankruptcy Code, 2016 and rules and regulations framed thereunder and from its own efforts discovered the ongoing litigation before Hon'ble Delhi High Court, between the CD and M/s Divine Infracon Private Limited (Judgement Debtor) and made endeavours to add a substantial value to the assets of the Corporate Debtor, which enabled the CD to fetch and receive a Resolution Plan.

Analysis and findings of the DC.

2.1.23 The DC notes that Mr. Amit Agrawal was appointed as the IRP of the CD on 05.08.2022 and was later confirmed as the RP on 08.09.2022. As part of the CIRP, the first Form-G inviting EOIs was issued on 07.10.2022, pursuant to which four EOIs were received by 16.12.2022 and were put before the CoC in the 3rd CoC Meeting held on 03.01.2023. However, in the absence of any resolution plan submissions, a second Form-G was published on 06.01.2023, resulting in the receipt of five additional EOIs, bringing the total number of Prospective Resolution Applicants (PRAs) to nine. Mr. Amit Agrawal submitted that after the deadline for submission of EOIs under the second Form-G, he became aware of an arbitral award in favour of the CD, which led to the recognition of the CD's ownership over four units at Hotel Radisson Blu, Dwarka.

2.1.24 The DC notes that the submission made by Mr. Amit Agrawal that he became aware about the arbitration award in favour of the CD, after publication of the 2nd Form G, does not appear to be correct. In the minutes of the 3rd CoC meeting held on 03.01.2023 it was recorded that "In response of the EOI received by the office of the RP, the RP has issued and supplied the Information Memorandum (I.M.), Request for Resolution Plan (RFRP) and Evaluation Criteria on 16.11.2022, to all 4 PRA's." In the annexure G annexed with the said IM shared four PRAs by Mr. Amit Agrawal on 16.11.2022, as material litigation, details of the High Court case regarding execution application bearing O.M.P. (ENF.) (COMM.) 163 of 2021 was mentioned and it was also mentioned that the last date of hearing of the case was 24.08.2022 and next date of hearing is 22.11.2022. Further in the 1st CoC meeting, held on 29.08.2022, CoC had passed resolution to engage advocate Mr. Pankaj Agrawal. The conspectus of facts clearly indicates that Mr. Amit Agrawal and Advocate Mr. Pankaj Agrawal were aware about the pending litigation with respect to the execution application bearing O.M.P. (ENF.) (COMM.) 163 of 2021, filed by the CD for execution of the arbitral award dated 23.08.2014 in favour of the CD wherein the claims of the Corporate Debtor to the extent of ₹3,01,07,607/- (Rupees Three Crores One Lakh Seven Thousand Six Hundred and Seven only), along with interest at the rate of 9% per annum from the date of the award until the date of payment by the Judgment Debtor.

- 2.1.25 On the issue of non-publication of fresh form G after alleged discovery of four units belonging to the CD, the DC is of the view that in the Form G, details of the assets of the CD are not mentioned. However, before informing the nine PRAs about the discovery of four units of the CD, Mr. Amit Agrawal should have informed this to the CoC and further course of action should have been taken as per the decision taken by the CoC. Had Mr. Amit Agrawal informed the CoC about the aforesaid four units of the CD, prior to informing the same to the nine PRAs, CoC could have taken different course of action including deciding to publish a fresh Form G.
- 2.1.26 The DC notes that during the pendency of this execution application bearing O.M.P. (ENF.) (COMM.) 163 of 2021 before High Court, an order of Hon'ble High Court of Delhi dated 24.12.2021 in O.M.P. (ENF.) (COMM.) 163 of 2021 had been passed, wherein it had been observed that "Divine Infracon Private Limited agreed to transfer Apartment Nos. 910, 923 & 923A at 9th Floor and Apartment No.1022A on the 10th Floor, situated at Hotel Radisson Blu, Dwarka in *favour of Corporate Debtor*". This order dated 24.12.2021 is available on the website of the Delhi High Court. The DC notes that when Mr. Amit Agrawal was aware about the pending litigation as mentioned in the IM, the orders passed therein are to be in the knowledge of Mr. Amit Agrawal being in public domain and this presumption will have to be made unless proved otherwise by Mr. Amit Agrawal. Therefore, he should have mentioned details of the arbitration award in the IM like amount of the arbitration award and also four units at Hotel Radisson Blu offered by Divine Infracon Private Limited which were agreed to be given by Divine Infracon Private Limited as per order dated 24.12.2021 of HC. Hence conduct of Mr. Amit Agrawal, in this regard, needs to be examined by the Board.
- 2.1.27 It is seen that allegation in the SCN is that Mr. Amit Agrawal should have issued the fresh Form-G to provide level-playing field to all prospective bidders instead of providing this information to PRAs only as it could have also led to more market participation. DC notes that discovery of new information and assets is an ongoing process and does not necessitate issue of new Form G for discovery of every new information or assets. However, where substantial assets or a new line of business is discovered which goes beyond the capacity of the PRAs or where the existing PRAs will not be able to provide value for the same, fresh Form G may be required. This decision needs to be taken on the facts of the case. In this case, it appears from the reply of the IP that he was inclined to issue fresh Form G but did not take that action as the CIRP period was getting over and CoC was completely unwilling for grant of further extension. However, no such evidence has been brought before the DC. Hence, IP has not been able to establish that IP would have issued form G but for unwillingness of CoC. Hence, the DC holds the contravention to the extent that the

discussion regarding issue of fresh 'Form G' as brought out by him is not substantiated by any evidence though he had provided the information to all PRAs.

3. Order.

- 3.1. In view of the foregoing, the DC in exercise of the powers conferred under Section 220 of the Code read with Regulation 13 of the Inspection and Investigation Regulations and Regulation 11 of the IP Regulations hereby suspends the Authorisation for Assignment of Mr. Amit Agrawal (Registration No. IBBI/IPA-002/IP-N00185/2017-18/10456) for a period of three months.
- 3.2. The DC refers the matter to the Board for examining/ investigating the conduct of Mr. Amit Agrawal, with respect to not mentioning the amount of the claim awarded in the arbitration award and subsequent assurance of Divine Infracon Private Limited in respect of giving four units in the hotel as noted by HC in its order dated 24.12.2021. While investigating conduct of Mr. Amit Agrawal, Board may examine the correspondence between Mr. Amit Agrawal and other stakeholders including advocate, PRA, Valuers and CoC members.
- 3.3. This Order shall come into force after expiry of 30 days from the date of its issuance.
- 3.4. A copy of this order shall be sent to the CoC/ Stakeholders Consultation Committee of all the Corporate Debtors in which Mr. Amit Agrawal is providing his services, if any and the CoC/SCC may decide on the continuation of services of Mr. Amit Agrawal.
- 3.5. A copy of this order shall be forwarded to ICSI Institute of Insolvency Professionals where Mr. Amit Agrawal is enrolled as a member.
- 3.6. A copy of this order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal, New Delhi, for information.
- 3.7. Accordingly, the show cause notice is disposed of.

Dated: 24 July 2025
Place: New Delhi

Sd/-
(Sandip Garg)
Whole Time Member
Insolvency and Bankruptcy Board of India