

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
(Disciplinary Committee)

No. IBBI/DC/107/2022
24th June, 2022

Order

In the matter of Mr. Kedarram Ramratan Laddha, Insolvency Professional (IP) under section 220 of the Insolvency and Bankruptcy Code, 2016 read with regulation 11 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

This Order disposes of the Show Cause Notice (SCN) No. IBBI/IP/MON/2022/273/3521/522 dated 09th May 2022 issued to Mr. Kedarram Ramratan Laddha, who is a Professional Member of Indian Institute of Insolvency Professionals of ICAI (IIIP-ICAI) and an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (IBBI) with Registration No. IBBI/IPA-001/IP-P00586/2017-18/11115.

1. Background

- 1.1. The Hon'ble NCLT, Ahmedabad Bench (AA) vide order dated 17th December 2020 admitted the application filed by Salem Stainless Steel Suppliers Pvt Ltd (Operational Creditor (OC)/Applicant)) under section 9 of the Insolvency and Bankruptcy Code, 2016 (Code) for initiating Corporate Insolvency Resolution Process (CIRP) of M/s. Cooltech Consumers Pvt. Ltd. The AA appointed Mr. Kedarram Ramratan Laddha as an Insolvency Resolution Professional (IRP).
- 1.2. The IBBI, in exercise its powers conferred under Regulation 11 of IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations), issued an SCN to Mr. Kedarram Ramratan Laddha on 09th May 2022. Mr. Kedarram Ramratan Laddha replied to the SCN on 21st May 2022. Mr. Kedarram Ramratan has submitted further written submissions vide email dated 15th June 2022.
- 1.3. The IBBI referred the SCN to the Disciplinary Committee (DC) for disposal of the SCN in accordance with the Code and Regulations made thereunder. The DC provided an opportunity of virtual personal hearing to Mr. Kedarram Ramratan Laddha and heard the oral submissions of Mr. Kedarram Ramratan Laddha on 16th June 2022.
- 1.4. The DC has considered the SCN, the reply to SCN, oral and written submissions of Mr. Kedarram Ramratan Laddha, other material available on record and proceeds to dispose of the SCN.

2. Alleged Contravention

- 2.1. Mr. Kedarram Ramratan Laddha was earlier issued an SCN (earlier SCN) on 27th August 2020 for accepting assignment as IRP in the matter of Regency Linx Exports Private Limited and Premier Futsal Management Private Limited and as Liquidator in the matter of Steel Konnect (India) Private Limited without valid Authorisation for Assignment

(AFA). The earlier SCN was disposed of by the erstwhile Disciplinary Committee vide order dated 7th January 2021. It is observed that Mr. Kedarram Ramratan Laddha accepted the assignment of IRP in CIRP of M/s Cooltech Containers Pvt Ltd (CD) after its admission to CIRP vide Hon'ble NCLT order dated 17th December 2020, while not holding valid AFA but also during pendency of disciplinary proceedings which were initiated against Mr. Kedarram Ramratan Laddha vide Earlier SCN dated 27th August 2020 and disposed of on 7th January 2021.

- 2.2. The signature and seal of Mr. Kedarram Ramratan Laddha affixed on Form FA filed by the OC/applicant before AA on 26th December 2020 establishes the fact that Mr. Kedarram Ramratan Laddha accepted the assignment as IRP of CD and actually acted as IRP in CIRP of CD during the pendency of disciplinary proceedings against him. The malafide intention of Mr. Kedarram Ramratan Laddha in hiding his appointment as IRP in the CD during the pendency of disciplinary proceedings, can be substantiated from the fact that the relationship disclosure (which has to be filed within three days of appointment) in terms of IBBI Circular No. IP/005/2018 dated 16th January 2018 has been filed on 08th January 2021 with IIP-ICAI (i.e. after the disposal of the Earlier SCN by Disciplinary Committee with no directions on 07th January 2021) in respect of his appointment as IRP in the CD..
- 2.3. It is alleged that the conduct of Mr. Kedarram Ramratan Laddha of accepting assignment as IRP without valid AFA and during pendency of disciplinary proceedings is in violation of IBBI Circular No: LA/010/2018 dated 23rd April 2018, section 208(2)(a) and 208(2)(e) of the Code read with Regulation 7A, 7(2)(a) and 7(2)(h) of the IP Regulations, Clause 1, 2, 11, 12 and 14 of the Code of Conduct prescribed under IP Regulations.

3. Submissions

- 3.1. Mr. Kedarram Ramratan Laddha has submitted that the CIRP of the CD was admitted by the AA vide order dated 17th December 2020 and he was appointed as IRP. The copy of order was uploaded, and certified copy of the order was received to him as IRP on 20th December 2020. The OC/applicant had submitted Form FA to IRP on 26th December 2020, thus in respect of provisions of the Code, he filed an application through advocate for withdrawal. When the matter was heard for the withdrawal on 19th January 2021, AA mentioned that “...the RP is further directed not to form CoC”. Against the order dated 19th January 2021, AA vide order dated 13th July 2021 disposed off the application with a remark that “Since RP is not proceeding with CIRP in spite of the fact that there is no stay on CIRP, we replace IRP by appointing Mr. Rajubhai Patel... ”.
- 3.2. With regard to earlier SCN dated 27th August 2020 issued by the IBBI, Mr. Kedarram Ramratan Laddha has submitted that DC of IIP-ICAI has decided Mr. Kedarram Ramratan Laddha as not guilty, and accordingly the earlier SCN dated 27th August 2020 was disposed of without any direction. Therefore, in terms of the doctrine of res judicata and estoppel, the said issues could not have been raised. Mr. Kedarram Ramratan Laddha has also submitted that his appointment as IRP was confirmed by AA on 17th December 2020 and at the time of personal hearing for earlier SCN dated 27th August 2020, the DC

on 10th September 2020 has orally pronounced the order and closed the disciplinary proceedings against him wherein the signed order was received on 07th January 2021.

- 3.3. For accepting the assignment without holding AFA, Mr. Kedarram Ramratan Laddha has submitted that his appointment as IRP was made based on his written consent at the time of filing of petition for initiation of CIRP on 03rd July 2019 (Consent Date). That at the time of consent date, there were no provisions for holding AFA. The provision for having AFA was inserted under the Regulation 7A in IP Regulations vide notification dated 23rd July 2019 which is much after his Consent Date. Regulation 7A indicates that it is intended to be prospective in nature, and it does not have any retrospective effect and as such the issue of accepting assignment as IRP after 31st December 2019 without holding a valid AFA in the CIRP of the CD is not correct.
- 3.4. Further in regard to the contention for accepting the assignment during the pendency of proceeding in terms of IBBI circular dated 23rd April 2018, Mr. Kedarram Ramratan Laddha has submitted that in December 2020, he had symptoms of Covid-19 virus and accordingly quarantined himself. So, he could not file an application for withdrawal of his consent before AA and in the meantime, OC/applicant had submitted Form FA for withdrawal of the petition. Due to this reason, Mr. Kedarram Ramratan Laddha made the disclosure of his appointment on 08th January 2021.
- 3.5. Mr. Kedarram Ramratan Laddha has also submitted that before the admission of CIRP of the CD, he had intimated to the OC/applicant about withdrawal of his consent as IRP vide letter dated 15th August 2019. The OC/applicant had confirmed the receipt of the said letter and stated that they will inform the AA about such letter. But later the petition was admitted and CIRP was initiated against the CD. Due to unforeseen circumstances as mentioned above, he was not able to properly intimate the AA. Even otherwise, the AA and the Board have the access over the professional data of insolvency professionals, therefore there was no concealment of any information from his side.
- 3.6. Mr. Kedarram Ramratan Laddha has apologized for inadvertently not intimating to the AA about the pendency of disciplinary proceeding against him and stated that he had no malafide intention to violate or contravene the regulation or to derive any personal benefit or to harm anyone.

4. Analysis and Findings

- 4.1. Regulation 7A of IP Regulations states that an IP shall not accept or undertake an assignment after 31st December 2019 unless he holds a valid AFA on the date of such acceptance or commencement of such assignment. The DC notes that submission of Mr. Kedarram Ramratan Laddha that the consent was given at the time of filing of petition for initiation of CIRP on 03rd July 2019 (Consent Date) and at the time of consent date, there were no provisions for holding AFA.
- 4.2. The DC further notes that CIRP of the CD was admitted on 17th December 2020 wherein Mr. Kedarram Ramratan Laddha was appointed as an IRP based on consent given on 03rd

July 2019. Regulation 7A was inserted in the IP Regulations vide notification dated 23rd July, 2019 which requires IP to have AFA before undertaking any assignment after 31st December, 2019. The DC found that Mr. Kedarram Ramratan Laddha was not having AFA prior to 30th December 2021 and the same was not intimated by Mr. Kedarram Ramratan Laddha to AA on the following events:

- (i) From 01st January 2020 (date when the requirement of AFA for taking any assignment commenced) till 16th December 2020 i.e. prior to the date of admission of CIRP of the CD.
- (ii) On admission of CIRP of the CD i.e. 17th December 2020.
- (iii) At the time of filing of Form FA by the applicant through Mr. Kedarram Ramratan Laddha for withdrawal i.e. 26th December 2020.
- (iv) Relationship Disclosure filed on 08th January 2021 by Mr. Kedarram Ramratan Laddha to its IPA.
- (v) When the matter was heard for the withdrawal on 19th January 2021.
- (vi) Period prior to AA's order dated 13th July 2021 wherein Mr. Kedarram Ramratan Laddha was replaced.

Hence, the DC finds that Mr. Kedarram Ramratan Laddha was not having valid AFA at the time of commencement of assignment as IRP in CIRP of CD and the same was not intimated to AA at any point of time.

4.3. Further, IBBI Circular No: LA/010/2018 dated 23rd April 2018 states that “*a disciplinary proceeding is considered as pending against an insolvency professional from the time he has been issued a show cause notice by the Insolvency and Bankruptcy Board of India all its disposal by the disciplinary committee; and an insolvency professional who has been issued a show cause notice shall not accept any fresh assignment as interim resolution professional, resolution professional, liquidator, or a bankruptcy trustee under the Code.*” The DC notes that disciplinary proceedings against Mr. Kedarram Ramratan Laddha was pending from 27th August 2020 to 6th January 2021 and accordingly Mr. Kedarram Ramratan Laddha was barred from accepting any assignments during the said period. However, Mr. Kedarram Ramratan Laddha had accepted the assignment as IRP of CD and acted upon the same which is evident from Form FA filed by the applicant through Mr. Kedarram Ramratan Laddha and relationship disclosure filed by Mr. Kedarram Ramratan Laddha on 08th January 2021 i.e. after the disposal of the earlier SCN dated 27th August 2020 on 07th January 2021.

4.4. The Code of Conduct prescribed under IP Regulations mandates the IP to 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 and not to conceal any material information or knowingly make a misleading statement to the IBBI, the AA or any stakeholder, as applicable. The IP is required to abide by the provisions of the Code and regulations made thereunder and adhere to a strict Code of Conduct while performing his functions and duties under the Code. The DC finds that the ample opportunities were available to Mr. Kedarram Ramratan Laddha to disclose the facts of not having AFA and pendency of disciplinary proceeding before AA.

4.5. In view of the above, the DC finds that the conduct of Mr. Kedarram Ramratan Laddha in accepting the assignment as IRP of the CD without holding valid AFA and during pendency of disciplinary proceedings, is in violation of the IBBI Circular No: LA/010/2018 dated 23rd April 2018, section 208(2)(a) and 208(2)(e) of the Code read with regulation 7A, 7(2)(a) and 7(2)(h) of IP Regulations, Clause 1, 2, 11, 12 and 14 of the Code of Conduct prescribed under IP Regulations.

5. Order

5.1. In view of the forgoing contraventions, the DC finds that Mr. Kedarram Ramratan Laddha had accepted an assignment as IRP of the CD without holding valid AFA and during pendency of disciplinary proceedings. Hence, the DC, in exercise of the powers conferred under section 220 (2) of the Code read Regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016, hereby suspends the registration of Mr. Kedarram Ramratan Laddha having Registration No. IBBI/IPA-001/IP-P00586/2017-18/11115 for a period of one year.

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

5.3. A copy of this order shall be sent to the CoC of all the Corporate Debtors in which Mr. Mr. Kedarram Ramratan Laddha is providing his services, if any. The CoC may decide whether to continue his services or not. In case, CoC decide to discontinue his services, CoC may file an appropriate application before AA.

5.4. A copy of this order shall be forwarded to the Indian Institute of Insolvency Professional of ICAI where Mr. Kedarram Ramratan Laddha is enrolled as a member.

5.5. 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.

5.6. Accordingly, the show cause notice is disposed of.

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(Ravi Mital)
Chairperson, IBBI

Dated: 24th June, 2022

Place: New Delhi