

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Disciplinary Committee)

No. IBBI/DC/114/2022

19th July 2022

ORDER

In the matter of Mr. Getticheviyur Venkatraman Ravikumar, Insolvency Professional (IP) under Section 220 of the Insolvency and Bankruptcy Code, 2016 (Code) read with Regulation 11 of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016 and Regulation 13 of the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017.

This Order disposes of the Show Cause Notice (SCN) No. IBBI/IP/INSP/2021/80/536/3582 dated 26th May, 2022, issued to Mr. Getticheviyur Venkatraman Ravikumar, 34-36-38 New Hospital Road, Gobichettipalayam (Erode District), Tamil Nadu- 638452 who is a Professional Member of the Indian Institute of Insolvency Professional of ICAI and an Insolvency Professional registered with the Insolvency and Bankruptcy Board of India (IBBI) with Registration No. IBBI/IPA-001/IP-P00370/2017-18/10627.

1. Background

- 1.1 Mr. Getticheviyur Venkatraman Ravikumar, IP was appointed as Resolution Professional (RP) and Liquidator in the corporate insolvency resolution process (CIRP)/ liquidation process in the matter of Thirupur Surya Textiles Private Limited (CD). The NCLT, Chennai Bench (AA) had admitted the application for CIRP under Section 10 of the Code for CIRP of CD vide Order of the dated 14.06.2017 and appointed Mr. S. Muthuraju as interim resolution professional (IRP). Further, the Hon'ble AA vide its Order dated 20.09.2017 replaced the appointment of IRP with Mr. Ravikumar as RP. He was appointed as liquidator vide AA order dated 11.01.2018.
- 1.2 In exercise of its power under section 218 of the Code read with the IBBI (Inspection and Investigation) Regulations, 2017, the IBBI vide Order dated 03.06.2021 appointed an Inspecting Authority (IA) to conduct an inspection of Mr. Ravikumar, on having reasonable grounds to believe that the IP had contravened provisions of the Code, Regulations, and directions issued thereunder. IA submitted the Inspection Report to IBBI on 17.02.2022.
- 1.3 The IBBI on 26th May 2022 had issued the SCN to Mr. Ravikumar, based on findings in the inspection report in respect of his role as RP/ Liquidator in the processes of CD. Mr. Ravikumar replied to the SCN vide email dated 04.07.2022.
- 1.4 The IBBI referred the SCN, response of Mr. Ravikumar to the SCN and other material available on record to the Disciplinary Committee (DC) for disposal of the SCN in accordance with the Code and Regulations made thereunder. Mr. Ravikumar availed an opportunity of personal hearing before the DC on 6th July, 2022 wherein he reiterated the submissions made in his written reply.

2. Show Cause Notice, Submissions and Findings

The contraventions alleged in the SCN and Submissions by Mr. Getticheviyur Venkatraman

Ravikumar are summarized as follows:

3. Contravention- I

- 3.1 Mr. Ravikumar was appointed as the Liquidator in the CD vide AA order dated 11.01.2018. Further, AA vide order dated 24.01.2020 extended the liquidation period for a further period of one year from 11.01.2020 and also directed Mr. Ravikumar *inter alia* to abide by the model timelines as prescribed by IBBI in Liquidation Regulations. The aforesaid extension granted by AA ended on 10.01.2021, however the liquidation process is yet to be completed. Mr. Ravikumar did not seek further extension from AA to continue the liquidation process beyond the extended period which ended on 10.01.2021, thus contravening the directions of the AA.
- 3.2 Regulation 44(1) of Liquidation Regulations *inter alia* provided that liquidator shall liquidate the CD within a period of two years from liquidation commencement date. Further, Regulation 44(2) of Liquidation Regulations further requires the liquidator to make an application before the AA to continue 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, the Board is of the *prima facie* view that Mr. Ravikumar has *inter alia* violated Regulation 44(1) and 44(2) of Liquidation Regulations and Clause 13 of Code of Conduct as specified in the First Schedule of IP Regulations.

Submission

- 3.3 Mr. Ravikumar submits that the liquidation period had expired on 10.01.2020 and he had filed an application seeking extension and the same was allowed till 10.01.2021. Since the Covid-19 lockdown begun from 15.03.2020 and the country functioned in partial manner with only essential services being permitted to operate. It is but obvious that the entire process of liquidation of CD came to a complete stand still. Therefore, the Hon'ble Supreme Court took cognizance of the same and granted exemptions from limitation in all judicial and quasi-judicial proceedings for 15.03.2020 to 14.03.2021, 15.03.2021 to 02.10.2021 and for 15.03.2020 to 28.02.2022. In addition to the same the entire process of judicial and quasi-judicial proceedings went online, and the filing process also moved online sometime in December 2020. The Covid-19 Pandemic has stuck a blow to the liquidation proceedings of the CD and deemed the entire extended period of completion of liquidation ineffective. Mr. Ravikumar also adds that he has filed an application for further extension of liquidation period for one year from 29.06.2022 and for exclusion of period during the Covid-19 pandemic.

Findings

- 3.4 In the present matter it is observed that the extension of the liquidation period was only allowed till 10.01.2021 by the AA. However, Mr. Ravikumar relies on various order of the Hon'ble Supreme Court to submit that exemptions from limitation in all judicial and quasi-judicial proceedings for the Covid-19 Pandemic has been granted by the Apex Courts itself and hence leniency maybe shown in the face of such unprecedented disrupting event. The DC takes note that he has filed an application for extension of liquidation period by one year from 29.06.2022 and for exclusion of period during the Covid-19 pandemic. Since, mitigating actions have been taken by Mr. Ravikumar, the DC directs Mr. Ravi Kumar to be more diligent in performing his duties under the Code.

4. Contravention-II

- 4.1 Regulation 15 of Liquidation Regulations prescribes the timelines for filing the progress reports before AA. Further Section 208(2)(d) of the Code mandates an insolvency professional to submit copy of the records of every proceeding before the AA to the Board also. It is observed that the last progress report submitted by Mr. Ravikumar before AA was for the quarter ending June 2020. In his submission dated 21.12.2020 in response to the draft inspection report, he has stated that “*Liquidator has filed the quarterly reports before Hon'ble NCLT and the soft copies of the same were already submitted through email*’. However, documents evidencing the same were not shared by him with the IA.
- 4.2 It was further submitted by Mr. Ravikumar vide email dated 25.12.2021 “*the hard copies of the quarterly reports were sent to the Adjudicating Authority long back. But I came to know subsequently that the quarterly reports have to be submitted online on the website of NCLT. When it was tried, the website did not accept the same. Therefore, we filed all the quarterly reports, and an incident report was generated. I spoke to the Registry about the difficulty of filing the quarterly report and they asked me to send the incident report screenshot to them. It was sent through email and the reply is awaited. A copy of the incident report is enclosed.*”
- 4.3 It is, however, observed that incident reports submitted to the Board vide email dated 25.12.2021 are of 24.12.2021. On perusal of the incident reports, it is seen that attempt to file reports on the website of AA were made only on 24.12.2021. Mr. Ravikumar also failed to file such progress reports to IBBI, as required under section 208(2)(d) of the Code. In view of the above, the Board is of the *prima facie* view that Mr. Ravikumar has *inter alia* violated Section 208(2)(d) of the Code, Regulation 15 of Liquidation Regulations, and Clause 1, 2, 12 and 14 of Code of Conduct.

Submission

- 4.4 Mr. Ravikumar submitted that the quarterly reports for the quarters ending 30.09.2020, 31.12.2020, 31.03.2021, 30.06.2021 and 30.09.2021 were attempted to be filed before the registry of the AA only to be intimated that the filing process must be done online. It is unfortunate that no prior information was passed on regarding the step to move filing online and all parties concerned only learnt of the same when they visited the registry physically during the conversion period, from offline to online, leaving a lot of Advocates, IPs and Litigants in a lurch at large. The same was followed by another tormenting period of creating infrastructure for online filing and online hearings wherein all parties concerned suffered with bandwidth, camera, mic, and computer failure issues.
- 4.5 In spite of the above being a senior citizen and the Liquidator travelled to Chennai for filing of the quarterly reports only to learn upon his visit to the NCLT registry that the reports are to be filed online. Mr. Ravikumar promptly attempted to file the same only to be refused by the computer software and directed to file a complaint regard the same. This was also raised by Mr. Ravikumar and an incident report generated as abundant caution and he also sent the same by mail and also exchanged communication with the officers from IBBI. In effect the delay in filing of the quarterly report was caused purely owing to Covid-19 pandemic related lockdown, move from offline filing to online filing and other various factors beyond his

control. The delay is neither wilful nor wanton. Further, Mr. Ravikumar submits that he did not receive cooperation from the CD and the secured financial creditor which also contributed to the delay.

Findings

4.6 The regulation 15 of the Liquidation Regulation provides that,

“15. Progress reports.

(1) The liquidator shall submit Progress Reports to the Adjudicating Authority 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”

4.7 In the present matter it is observed that the quarterly reports for the quarters ending 30.09.2020, 31.12.2020, 31.03.2021, 30.06.2021 and 30.09.2021 have not been submitted in a timely manner by the Liquidator. Mr. Ravikumar pleads that he had approached the NCLT registry for physical filing but was informed that the filing is to be done online and thereafter, he attempted to file it online but there was technical error. It is observed from the generated incident report dated 24.12.2021 that the issue remained unresolved. Further, the quarterly reports were submitted by Mr. Ravikumar with the Board on 06.07.2022. In view of lack of any wilful or intentional delay by Mr. Ravikumar and the disruption in the liquidation process caused due to Covid-19 constraints, the DC takes a lenient view and accepts the submission.

5. ORDER

5.1 In view of the above, the DC, in exercise of the powers conferred under Section 220 of the Code read with Regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 and Regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016 disposes of the SCN with a warning to Mr. Getticheviyur Venkatraman Ravikumar to be extremely careful and ensure full compliance with the provisions of the Code and Regulations made thereunder in all his assignments.

5.2 This Order shall come into force with immediate effect, in view of para 5.1 of the order.

5.3 In view of the above Order, a copy of this order shall be forwarded to the Indian Institute of Insolvency Professional of ICAI where Mr. Ravikumar is enrolled as a member for their further necessary action.

5.4 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.

5.5 Accordingly, the show cause notice is disposed of.

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(Ravi Mital)

Chairperson, IBBI

Dated: 19th July 2022

Place: New Delhi