

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

[Authority delegated by the Central Government vide notification no. GSR 1316(E) dated 18.10.2017 under section 458 of the Companies Act, 2013 read with rule 2(1)(b) of the Companies (Registered Valuers and Valuation) Rules, 2017]

IBBI/Valuation/Disc./12/2023

19th April 2023

ORDER

This Order disposes the Show Cause Notice (SCN) No. RV-13012/3/2022-IBBI/291/8855, dated 24th January 2023 issued to Mr. Asim Maity under rule 17 read with rule 15 of the Companies (Registered Valuers and Valuation) Rules, 2017 (Valuation Rules). The Insolvency and Bankruptcy Board of India (IBBI/Board) has been delegated by the Central Government to perform the functions of the Authority under the Valuation Rules. Mr. Asim Maity is registered with IBBI as a valuer of Plant and Machinery Assets (P&M), with the registration number IBBI/RV/04/2019/10999 on 8th March 2019.

1. Issuance of Show Cause Notice (SCN) and hearing before the Authority

- 1.1. Rule 17(1) of the Valuation Rules provides that based on findings of an inspection, if the authorised officer is of the *prima facie* opinion that sufficient cause exists to cancel or suspend the registration of a valuer, it shall issue a SCN to the valuer.
- 1.2. In this regard, an Inspecting Authority (IA) was appointed to conduct inspection of the valuation report submitted by Mr. Asim Maity in the Corporate Insolvency Resolution Process (CIRP) of RNB Cements Pvt. Ltd (Corporate Debtor/CD).
- 1.3. Based on the findings of the inspection, a *prima facie* opinion was formed that sufficient cause exists to consider actions under sub-rule (5) of rule 17 of the Valuation Rules and accordingly it issued SCN dated 24th January 2023 for contravention of the rules 8(3)(g), (h) and (j) of the Valuation Rules and sought for his written reply and offered him an opportunity of personal hearing. Mr. Asim Maity responded to the SCN on 04th February 2023, and the matter was referred to the Authority for disposal of the SCN. Mr. Asim Maity availed the opportunity of personal hearing on 11th April 2023.

2. Contraventions alleged in the SCN

The SCN alleged following contraventions by Mr. Asim Maity (RV) with regard to his valuation report for the CD:

- 2.1.1. **Non-indication of valuation standards adopted.** - The valuation report did not indicate the valuation standards adopted by the RV for the purpose of valuation of the CD and therefore, the Board was of the *prima facie* view that the RV is in violation of sub-rule 3(h) of rule 8 of Valuation Rules.

2.1.2. Issue regarding methodology adopted for the valuation by the RV - The RV in para 3.2.1 of his valuation report for the CD has indicated that under the ‘Depreciated Replacement Cost’ method, the current cost of the assets (given the current condition of the asset) is evaluated after giving regards to parameters such as make, model, capacity, technical specifications, types of process, construction specifications, age of machinery, country of origin etc. However, while estimating the value of the assets, the RV had nowhere touched upon these parameters in his report. The RV has estimated the ‘Fair Market Value’ (FMV) and ‘Liquidation Value’ (LV) of the different classes of P&M, based on year of acquisition. The valuation report of the RV does not indicate the book value of the assets. There appears to be hardly any coherence between the methodology indicated by the RV and the one actually followed by him for estimation. The Board was of the *prima facie* view that the RV is in violation of sub-rule 3(h) and sub-rule 3(j) of rule 8 of Valuation Rules.

2.1.3. Estimation of ‘Liquidation Value’ in respect of Productive Assets - The RV in para 3.5.1 of his report, has mentioned that the *“Liquidation Value for P&M as well as for other equipment forming part of the subject assets, has been assessed in ex-situ basis. Under Ex-situ basis, it has been assumed that the assets will be removed from their existing location following the completion of sale and this is typically utilized in the case of assessment of Liquidation Value for Forced Sale Value. In this scenario, adjustments have been made to exclude necessary costs & charges such as foundation costs, decommissioning costs etc.”* However, while estimating the LV, the RV had assumed that LV would be 60 percent of the FMV in respect of all types of P&M without giving any reasoning or justification for such assumption. Assuming a flat discounting factor without taking into account the capacity, condition and alternative uses of the P&M does not appear to be justified especially when the RV has not made any attempt to logically justify the basis of his assumptions. This according to the Board is in violation of sub-rule 3(h) and sub-rule 3(j) of rule 8 of Valuation Rules.

2.1.4. Estimation of FMV and LV in respect of ‘vehicles’ and ‘office equipment’ - In the valuation report, the FMV and LV of the light vehicles and heavy vehicles has been made without indicating the make, model, condition etc. It appears that the RV have assigned an abrupt value, while doing the estimation of these item group. Similar methodology is adopted for valuation of office equipment (computers, office equipment, computer software, etc). The RV in his reply to draft inspection report submitted to IA, has mentioned that *“Understood the requirement. The Make / model /Registration number and approach will be incorporated in the upcoming report. We have used the market approach for this item. For Computer, fixture and furniture, office equipment we have adopted the WDV value with due consideration.”* However, the RV had never indicated in his report that he had used market approach for valuation of ‘vehicles’ and ‘office equipment’. It was categorically mentioned by the RV in the report that he was using ‘Cost Approach’ for valuation. This according to the Board is in violation of sub-rule 3(h) and sub-rule 3(j) of rule 8 of Valuation Rules.

2.1.5. Purchase price, Installed Capacity and condition of the P&M – The valuation of P&M asset is always guided by the techno-economic factors such as installed capacity, present condition of the assets and purchase price of the assets etc. The valuation report of the RV is silent on most of these issues, giving rise to point that the estimation of value is more abrupt than procedure oriented. Analysing the condition of the P&M is an integral part of its valuation and any evaluation without analysing such condition leads to confusion among stakeholders. The Board was therefore of *prima facie* view that the RV is in violation of sub-rule 3(g) and sub-rule 3(j) of Rule 8 of Valuation Rules.

2.1.6. Valuation of ‘Inventory’ in the Report – The RV in his report, has also given the estimated value for items which are classified as ‘Inventories’ in the balance sheet. As per the norms, generally followed, the Inventory is included while assessing the value of Securities or Financial Assets. If the same were included in the SFA valuation as well, this might have led to overvaluation of the assets. In the said matter, for valuation of P&M, RP has appointed three valuers and the other two valuers have not included the inventory. The Board was of the *prima facie* view that the RV is in violation of sub-rule 3(h) and sub-rule 3(j) of Rule 8 of Valuation Rules.

3. Submissions made by the RV

3.1.1. The RV in response to the SCN served on him has submitted that that the valuation was conducted in the year 2019 and was performed during the early stages of the Valuation Rules. At that time, there was a lack of understanding about the report writing procedure and the necessary elements that should be included in the report. However, over the past three years, the RV has now gained a better understanding of the requirements through peer review, discussion, and participation in Continuous Education Programs (CEP). The RV has assured that all the points raised in the SCN has been understood by him and will be incorporated, if not already addressed.

4. Findings of DC

4.1. The Authority has perused the contraventions alleged in the SCN and the reply of the RV on the SCN. It is observed that the RV has neither countered the allegations made in the SCN nor provided any justification as to how his valuation report is in compliance with the applicable provisions of Valuation Rules.

4.2. A valuation report is expected to be a complete document in itself carrying all the basis of estimates provided for valuation, for the benefit of stakeholders. The plea of RV with regard to lack of understanding about the report writing procedure and the necessary elements to be included in the report, during the early stages of the Valuation rules, cannot be accepted as rule 8(3) of the Valuation rules explicitly provides the minimum content to be mentioned in a valuation report.

5. Order

- 5.1. In view of the foregoing, after considering the allegations made in the SCN, the limited reply provided by the RV and the materials available on record, the Authority in exercise of powers conferred vide notification of Central Government no. GSR 1316(E) dated 18th October 2017, under Section 458 of the Companies Act, 2013 and in pursuance of rule 15 and rule 17 of the Valuation Rules hereby suspends the registration of Mr. Asim Maity bearing registration number - IBBI/RV/04/2019/10999, for a period of six months to serve as deterrent for being cautious about dealing sensitive nature of valuation exercise under the aegis of IBC with due diligence and care.
- 5.2. In terms of sub-rule (8) of rule 17 of Valuation Rules, this Order shall come into force after 30 days from the date of its issuance.
- 5.3. A copy of this order shall be forwarded to IIV India registered Valuers Foundation where Mr. Asim Maity is enrolled as a member.
- 5.4. Accordingly, the show cause notice is disposed of.

Dated: 19th April 2023
Place: New Delhi

Sd/-
(Sudhaker Shukla)
Whole Time Member, IBBI