

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.(A)/05/2025

01 May 2025

ORDER

This Order disposes the appeal preferred by Mr. Nitin Ashok Garg against the Order dated 21.02.2025 passed by Insolvency and Bankruptcy Board of India (IBBI). Mr. Nitin Ashok Garg (RV) is registered under Valuation Rules as a valuer of Plant and Machinery Assets, with the registration number IBBI/RV/02/2019/11590 on 16.05.2019 and in Securities or Financial Assets, with the registration number IBBI/RV/02/2019/12271 on 29.08.2019.

1. Brief Background

- 1.1 The IBBI, in accordance with rule 15 read with rule 17 of the Valuation Rules, had suspended the registration of Mr. Nitin Ashok Garg for a period of six months vide its Order dated 21.02.2025 (hereinafter referred as "Order"). The said Order disposed of the Show Cause Notice (SCN) No.RV-13012/2/2023-IBBI/364/415, dated 19.07.2024, issued to Mr. Nitin Ashok Garg in respect of his valuation assignment in the liquidation of M/s. East Coast Energy Private Limited (Corporate Debtor/CD).
- 1.2 In terms of Rule 17(9) of the Valuation Rules, Mr. Nitin Ashok Garg has now preferred an appeal against the Order dated 21.02.2025. He availed the opportunity of personal hearing before the appellate authority on 11.04.2025.

2. IBBI Order dated 21.02.2025.

- 2.1 The IBBI in its Order dated 21.02.2025 examined the allegations mentioned in the SCN dated 19.07.2024 and the reply of Mr. Nitin Ashok Garg on such allegations, which is presented here in brief as follows-
 - 2.1.1 **Issue regarding valuation of current/ non-current assets** – The SCN alleged that Mr. Nitin Ashok Garg has assigned zero value or very minimal value to current assets such as bank deposits, current investment, short term loan etc in comparison to substantial book value. The RV in his response to the SCN had stated that analysis was done on limited data to extract party wise breakup from trial balance under different heads in Balance Sheet. The Authority on perusal of the materials available on record had concluded that there was no lack in due diligence on the part of RV in seeking necessary information and documents from the liquidator.
 - 2.1.2 **Issue regarding valuation of steel material** - The SCN alleged that Mr. Nitin Ashok Garg has nowhere mentioned the market rate of steel price of the area in his valuation report and the valuation report does not reveal any indication regarding the reference rate considered

for valuation of the asset. The RV in his response to the SCN had stated that he has reported all the facts to the best possible extent and Section 2.2.1 on page 80, 81, 82 of the report, details out major factors considered by the RV while evaluating. The Authority found that the RV had adopted a flat rate of ₹32,000/MT for valuing different types of machineries of the CD and had also not provided any justification as how the rate of melting scrap be considered for the purpose of valuation of machineries of the CD. Therefore, the Authority found RV in violation of Rule 8(3)(g) of the Valuation Rules.

2.1.3 Valuation Standards not stated in the Valuation Report- The SCN alleged that Mr. Nitin Ashok Garg has not mentioned the valuation standards followed by him in his report in contravention of Rule 8(3)(h) of Valuation Rules. The RV in his response to the SCN had stated that report was prepared in accordance with the standards issued by the International Valuation Standards Council and the RV has fully adhered to these standards, being part of his Registered Valuers Organisation namely IOV Registered Valuers Foundation (IOVRVF) which has adopted these standards. The Authority notes that in terms of rule 8(1) of the Valuation Rules, a RV can make valuation either as per the internationally accepted valuation standards or valuation standards adopted by any RVO. Therefore, being member of IOVRVF does not imply that the RV could have followed any particular valuation standard. Further, provision of rule 8(3)(h) specifically mandated the RV to mention in his report the valuation standard followed by him. Accordingly, the Authority found RV in violation of Rule 8(3)(h) of the Valuation Rules.

3. Appeal by Mr. Nitin Ashok Garg.

3.1 Mr. Nitin Ashok Garg in his appeal has submitted the following:

a) **With respect to valuation of steel material:** On page 3 of the valuation report, following is mentioned:

“As on date of site visit, majority of the machines were in poor condition and found scattered all-over the plant land. To evaluate the same, weights were considered as mentioned over the label and wherever labels were missing, then dimensions were considered to arrive at the approx.. weight by using dimensional weight analysis.”

Further on page 6 of the valuation report, following is mentioned:

Key Points
Assumption
Realizable Value:- The construction of the project is stalled since 2015 and requisite information and details seems to be unavailable. Thus, it would be difficult for the prospective buyer to complete the project from current situation. Hence, it could be stated that the majority of the incomplete structures and machines have lost there "utility value" and only "material value" exists. Hence, while estimating the realizable value Ex-Situ or Piece Meal sale basis is considered.

Further under section 2.2.1 on page 80,81 and 82 under Site Observation and Data Limitation, the following is mentioned:

- The data with respect to the material at site and what material is still to come is not available. Also, for the completion of the project ECEPL had engaged turnkey contractor M/s Dongfang Electric Corporation Limited, which along with other major contractors has vacated the site and is currently not on board. Technical people in ECEPL are also not available. Thus, completing the project basis the limited information and support seems to be a difficult task. Hence, considering that a prospective buyer for the project might not be able to derive any "Utility Value" from the partially erected equipment's at site; hence, only "Material Value" is being ascertained.

The RV has submitted that the above excerpts from the valuation report justify as to why the rate of melting scrap was considered for different types of machineries of CD. The RV has emphasised that it is mentioned in the excerpts that the machines have lost their "utility value" and only "material value" exists.

- b) With respect to valuation standards not stated in the Valuation report:** The IOVRVF has vide its notice no RBC-16 of 2018 dated July 24, 2018 has made International Valuation Standard (IVSC) as mandatory compliance by all its members. Since, the said notice is freely accessible and available on official website of IOVRVF, there was no requirement to attach this document with the valuation report.

4. Analysis and findings

- 4.1 On perusal of the Order, it is observed that mainly the violations made out against Mr. Nitin Ashok Garg is on two counts, namely non-disclosure of material information including the nature and sources of the information used or relied upon for valuation of plant and machinery of the CD and non-indication of valuation standards followed by him in his valuation report.
- 4.2 It is pertinent to note that Rule 8 of the Valuation Rules explicitly provides as to what all mandatory contents should be there in a valuation report submitted by registered valuer. These mandatory contents helps in enhancing the credibility of the valuation report and the consequently the trust of the stakeholders. This is essential as the critical decision in a CIRP/Liquidation process under the Code is taken on the basis of the valuation estimates provided in the valuation report.
- 4.3 In the present matter, it is observed that the RV has failed to demonstrate in his valuation report, the source of information for the rate taken by him in valuation of the plant and machinery of the CD. Further, it cannot be understood from the perusal of the valuation report as to how the rate of melting scrap, as now contended by the RV in his submission to the SCN, has been considered by him for all sorts of the machineries of the CD. The valuation report is not clear in this aspect. Further, the submission of RV with respect to non mentioning of the valuation standards in his valuation report cannot be accepted. The RV cannot be allowed to have a bypass from the compliance of the provisions of the Valuation Rules.

4.4 Therefore, this Authority agrees with the findings in the Order dated 21.02.2025, that the valuation report falls short of having all the mandatory contents as required under Rule 8(3)(g) and 8(3)(h) of the Valuation Rules.

5. Order

5.1 In view of the foregoing, this Authority does not find any reason to interfere with the Order dated 21.02.2025. Accordingly, 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 17(9) of the Valuation Rules, dismisses the appeal.

Dated: 01.05.2025

Place: New Delhi

Sd/-

(Ravi Mital)

Chairperson

Insolvency and Bankruptcy Board of India