

**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**  
**(Disciplinary Committee)**

No. IBBI/DC/263/2025

04 February 2025

**ORDER**

This Order disposes of the Show Cause Notice (SCN) No. COMP-11012/168/2023-IBBI/839/85 dated 19.02.2024, issued to Mr. Anil Kumar Mittal ('IP'), an Insolvency Professional registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with Registration No. IBBI/IPA-003/IP-N00305/2020-2021/13289, who is a Professional Member of the Insolvency Professional Agency of Institute of Cost Accountants of India.

**1. Background**

- 1.1. The NCLT, New Delhi Bench (AA) *vide* order dated 18.02.2022 admitted the application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (Code) filed by M/s. Kerry Indev Logistics Private Limited (OC) for initiating Corporate Insolvency Resolution Process (CIRP) of M/s. Divinesair Logistics Private Limited (CD/Corporate Debtor) and appointed Mr. Anil Kumar Mittal as the Interim Resolution Professional (IRP) who was later confirmed as Resolution Professional (RP).
- 1.2. The NCLAT *vide* order dated 10.08.2023 ordered the withdrawal of the CIRP proceedings against the CD with certain observations against the conduct of Mr. Anil Kumar Mittal.
- 1.3. The Board in exercise of its powers under Section 218 of the Code, read with Regulations 7(2) and 7(3) of Insolvency and Bankruptcy Board of India (Inspection and Investigation), Regulations, 2017 (Inspection and Investigation Regulations), appointed an Investigating Authority (IA) to conduct the investigation in the CIRP of the CD.
- 1.4. Accordingly, a notice under Regulation 8(1) of the Inspection and Investigation Regulation was issued to Mr. Anil Kumar Mittal on 31.10.2023 with a request to provide reply along with relevant documents. Mr. Anil Kumar Mittal submitted his reply to the investigation notice *vide* email dated 16.11.2023. Based on the findings of the investigation as mentioned in the Investigation Report submitted by the IA, the Board formed a prima facie view that Mr. Anil Kumar Mittal had contravened provisions of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations), the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations) and issued the SCN to Mr. Anil Kumar Mittal on 19.02.2024 with the request to furnish reply by 04.03.2024, however, Mr. Anil Kumar Mittal sought extension of time. The reply of Mr. Anil Kumar Mittal on the SCN was received by the Board on 14.03.2024.

1.5. The SCN and response of Mr. Anil Kumar Mittal to the SCN were referred to the Disciplinary Committee (DC) for disposal of the SCN. Mr. Anil Kumar Mittal availed an opportunity of personal hearing before the DC through virtual mode on 26.12.2024.

## 2. **Alleged contraventions, submissions of Mr. Anil Kumar Mittal and findings of the DC.**

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

### 2.1. **Charging of excessive fee:**

- 2.1.1. It was observed that the total admitted claim in the CIRP of the CD was Rs. 10 lakhs. It was further observed that Mr. Anil Kumar Mittal claimed the CIRP cost to the tune of Rs.19.9 lakh out of which Mr. Anil Kumar Mittal's fee was Rs.18 lakh. The fee of Rs.18 lakhs charged by Mr. Anil Kumar Mittal in the CIRP of the CD was disproportionately high in the context of the CIRP of the CD as no complexities have been brought out to the notice of either the NCLAT or to the Board justifying such high CIRP cost.
- 2.1.2. The NCLAT in its order dated 10.08.2023, *inter alia*, observed " ... for recovery of a claim of about Rs.10 lakh, incurring an expenditure of Rs.19 lakh by way of fees/expenses of the Resolution Professional would be outlandish and that too when there seems to be no possibility of revival of the Corporate Debtor. " Further the NCLAT also observed that " ... the Resolution Professional could have exercised a modicum of restraint while projecting his fees/expenses."
- 2.1.3. As per Clause 25 of the Code of Conduct provided under Regulation 7(2)(h) of Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 (Code of Conduct) "An insolvency professional must provide services for remuneration which is charged in a transparent manner, is a reasonable reflection of the work necessarily and properly undertaken and is not inconsistent with the applicable regulations."
- 2.1.4. In view of the above, the Board was of the prima facie view that by charging fee almost double the value of claim received during the CIRP, Mr. Anil Kumar Mittal had contravened Clause 25 of the Code of Conduct.

### **Submissions by Mr. Anil Kumar Mittal.**

- 2.1.5. Mr. Anil Kumar Mittal submitted that the CIRP of the CD had commenced in March 2022 and culminated in August 2023 on the intervention of the NCLAT while hearing the matter challenging the initiation of CIRP by the directors of the suspended board. Mr. Anil Kumar Mittal further submitted that no creditor except M/s. Kerry Indev Logistics Private Limited (OC) filed claim in CIRP of the CD, hence, the applicant OC remained the sole CoC member and entire CIRP related cost and expenses was on his account since there was no cash in hand or bank account of the CD,

- 2.1.6. Mr. Anil Kumar Mittal submitted that in the CIRP of the CD, he remained occupied in the entire period of 18 months wherein his precious time was invested and incurred legal expenses in contesting application for exclusion and extension, application for seeking cooperation from the directors of the suspended board, publication of Form A and Form G, vetting and drafting of EOI, RFRP document, appointment of valuers for each class. Further, the directors of the suspended board of the CD had challenged the AA order dated 18.02.2022 initiating CIRP against the CD wherein he, as the RP of the CD was made party in the litigation before the NCLAT, wherein he had attended 11 hearings before the NCLAT and 9 hearings before the AA, in addition to routine appearances for, collection of certified copy of the order, for appointment as RP, CoC constitution, approval of status reports etc.
- 2.1.7. Mr. Anil Kumar Mittal submitted that as far as the quantum of fee/ expenses claimed by him found to be excessive, the professional fee of Rs.1.50 lakh per month was approved in the 1<sup>st</sup> CoC meeting held on 31.03.2022, with 100% voting. It was also argued by Mr. Anil Kumar Mittal that raising the objection by the OC that professional fee is excessive cannot be accepted. Mr. Anil Kumar Mittal further submitted that he on his own had reduced the fee to Rs.1.00 lakh per month being the minimum fee prescribed by the IBBI, however, expenses in the CIRP was charged on actual basis and was approved by the CoC in the meeting.
- 2.1.8. Mr. Anil Kumar Mittal also submitted that the total CIRP cost including his fee was Rs.8,00,000, which was paid by the OC being the sole CoC member since the CD was having no money in its Bank account. Mr. Anil Kumar Mittal submitted that for the entire period of 18 months of the CIRP of the CD, his fees as RP/IRP of the CD works out to be Rs.35,775 p.m. for 18 months. The breakup of the total cost incurred during CIRP was as under:-

<b>S.No.</b>	<b>Particular</b>	<b>Amount</b>
(i)	Statutory advertisement (s)	30,000
(ii)	Filing fee paid in NCLT and RoC fee	10,000
(iii)	Fee and expenses paid to Regd. Valuers	60,000
(iv)	Paid to Statutory Auditor and assistance for account keeping.	44,000
(v)	Paid towards Postage, photocopies and Conveyance etc.	12,000
(vi)	IRP/RP for entire 18 months of CIRP period which works out to Rs. 35,775/-p.m. for 18 months.	6,44,000
	<b>Balance</b>	
	<b>Total</b>	<b>8,00,000</b>

- 2.1.9. Mr. Anil Kumar Mittal further submitted that the total fee paid to him was much below the level fixed by the IBBI as per the Circular of minimum fee issued in September 2022, hence, there was no alleged contravention.

### **Analysis and findings.**

2.1.10. The Clause 25 of the Code of conduct provides :-

***“Remuneration and costs***

*An insolvency professional must provide services for remuneration which is charged in a transparent manner, is a reasonable reflection of the work necessarily and properly undertaken, and is not inconsistent with the applicable regulations.”*

- 2.1.11. The DC notes the submission of Mr. Anil Kumar Mittal that the CoC, comprising a sole OC during the 1<sup>st</sup> CoC meeting, had approved his professional fee at Rs.1.50 lakh per month. However, Mr. Anil Kumar Mittal claimed that he reduced the fee to Rs.1 lakh per month in compliance with the amended CIRP Regulations dated 13.09.2022. The minutes of the 3<sup>rd</sup> CoC meeting dated 17.12.2022, reveal that the CoC had noted that the decision regarding the fees of the RP shall be taken after consultation in the light of the minimum fee of Rs.1 lakh per month payable to IRP/RP during the CIRP period as prescribed by the IBBI vide amended CIRP Regulations dated 13.09.2022.
- 2.1.12. The DC further notes that the OC vide e-mail dated 10.09.2022 had informed Mr. Anil Kumar Mittal that the IRP fee amounting to Rs. 8,00,000, paid so far, is not in order, considering that the total outstanding claim of the CD itself is Rs.10,65,025 only. However, Mr. Anil Kumar Mittal failed to address the issue raised by the OC and continued to claim the exorbitant fees.
- 2.1.13. The DC notes that NCLAT vide order dated 10.08.2023 made certain observations on the conduct of Mr. Anil Kumar Mittal by specifically mentioning that, *“for recovery of a claim of about Rs. 10 lakh, incurring an expenditure of Rs.19 lakh by way of fees/expenses of the RP would not be appropriate. The RP should have exercised a modicum of restraint in his fees/expenses.”*
- 2.1.14. The DC further notes that incurring CIRP cost of Rs.19.9 lakh by Mr. Anil Kumar Mittal, including Rs.18 lakh as his fees, as submitted before the NCLAT and mentioned in the NCLAT order dated 10.08.2023 against the total admitted claims of about Rs.10 lakh was disproportionately high, particularly in the absence of any exceptional complexity or responsibility in the CIRP proceedings.
- 2.1.15. The DC notes that Mr. Anil Kumar Mittal in his reply submitted that the total CIRP cost charged by him including his fee was Rs. 8,00,000, for entire period of 18 months of CIRP of CD, wherein Mr. Anil Kumar Mittal fees as RP/IRP of the CD works out to be Rs. 35, 775 p.m. for 18 months. The DC notes that the given professional fees of Rs. 6,44,000 during the CIRP of the CD was accepted by Mr. Anil Kumar Mittal after the observations made by the NCLAT in its order dated 10.08.2023 wherein the NCLAT directed that, *“Given the slow and lackadaisical progress of the present CIRP proceedings, we would like to refrain from showing any indulgence to the Resolution Professional in claiming any additional amount of fees/expenses beyond the amount of Rs.8 lakhs which has already been paid.”* The NCLAT further directed that the

Resolution Professional is not entitled to claim any fees/expenses beyond the sum of Rs.8 lakh which has already been received.

2.1.16. The DC notes that an insolvency professional is duty-bound under Section 208(2)(a) of the Code, read with Clause 25 of the Code of Conduct, to exercise reasonable care and diligence in performing duties and ensure fees are charged transparently. It is the responsibility of the RP to avoid overburdening an ailing CD with exorbitant fees disproportionate to the services rendered. The mere approval of fees by the CoC, especially one comprising a sole OC, does not justify unreasonably high charges. The fees charged must reflect the actual work undertaken and adhere to the principle of reasonability.

2.1.17. In view of the above, the DC finds that Mr. Anil Kumar Mittal claimed exorbitant fees of Rs.18 lakh in the CIRP of an ailing CD, where the admitted claims amounted only around Rs. 10 lakh. Hence, the DC finds that Mr. Anil Kumar Mittal has contravened Clause 25 of the Code of Conduct.

## 2.2. **Lack of efforts in enabling CoC for timely withdrawal of CIRP:**

2.2.1. It has been observed by NCLAT in its order dated 10.08.2023 " ... *Resolution Professional ought to have facilitated the withdrawal of the CIRP application as was desired by the sole CoC member/Respondent No. 1 without unduly prolonging the proceedings.* "

2.2.2. Mr. Anil Kumar Mittal in his reply to IA admitted of having been informed by advocate of the applicant OC about its intention to withdraw CIRP during the hearing held on 21.01.2023 and subsequently Mr. Anil Kumar Mittal vide email dated 24.01.2023 informed them of the procedures for the same as well as tentative bills for fees and expenses. Mr. Anil Kumar Mittal further admitted of having some mail correspondences with the applicant OC in this regard but no active facilitation was extended by him resulting in delay in filing withdrawal application. Further, it was also noticed that 270 day's period of CIRP had already expired on 26.11.2022. However, the application for withdrawal of CIRP was delayed by Mr. Anil Kumar Mittal wherein he had mechanically sent emails/reminders to creditors, which further delayed closure of CIRP proceedings with his slow and lackadaisical steps during the process.

2.2.3. Clause 13 of the Code of Conduct provides that "*An insolvency professional must adhere to the time limits prescribed in the Code and the rules, regulations and guidelines thereunder for insolvency resolution, liquidation or bankruptcy process, as the case may be, and must carefully plan its actions, and promptly communicate with all stakeholders involved for the timely discharge of its duties.*"

2.2.4. In view of the above, the Board was of the *prima facie* view that Mr. Anil Kumar Mittal contravened Regulation 7(2)(h) of the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations) read with Clauses 13 of the Code of Conduct.

### **Submissions by Mr. Anil Kumar Mittal.**

- 2.2.5. Mr. Anil Kumar Mittal submitted that while undertaking the assignment of CIRP of CD, he had carefully planned its various activities and had taken reasonable care and diligence while performing his duties as per Section 208(2) (e) of IBC 2016, however due to non-cooperation and late response by the suspended directors of the CD, few of the CIRP related activities could not be completed in time resulting into extension of time beyond 180 days of CIRP, which resulted in additional burden in the process.
- 2.2.6. Mr. Anil Kumar Mittal submitted that the IRP/RP had taken due care in his various communication to all the stakeholders through notice, reports and updates on various directions and clarifications and no issue remained unanswered to the stakeholders even then, the sole CoC member had failed to express his point of view on the issue of professional fee due and payable to him in the CoC meeting rather they chose not to be available for the CoC meeting(s) resulting into delaying the whole process for months together from September 2022 to December 2022 (full three months). The CoC were to decide the crucial decision of the early closure of CIRP.
- 2.2.7. Mr. Anil Kumar Mittal further submitted that after indication for the withdrawal of CIRP on 23.01.2023, within a week time, he had sent them the due process and tentative bill of fee and expenses. But the OC never came forward for a dialogue on the fee issue, inspite of various e-mail reminders sent by him.
- 2.2.8. Mr. Anil Kumar Mittal further submitted that the advocate of the OC informed on 23.01.2023 about withdrawal from CIRP and then slept over this issue for six months. Mr. Anil Kumar Mittal had sent eight (8) e-mail reminders(s) to the OC on 25.01.2023, 30.01.2023, 04.02.2023, 15.02.2023, 09.03.2023, 24.03.2023, 26.04.2023, 30.05.2023, 04.07.2023 and 17.07.2023 for negotiating the fee or submit the documents for withdrawal of CIRP, however, the OC and his advocate never submitted the documents required for withdrawal of the CIRP.
- 2.2.9. Mr. Anil Kumar Mittal also submitted that the admission of CIRP was challenged before the NCLAT and whole process of CIRP got delayed and derailed for which Mr. Anil Kumar Mittal was helpless and cannot be held responsible.

### **Analysis and findings.**

- 2.2.10. Clause 13 of Code of Conduct reads as follows:-

#### ***“Timeliness.***

*13. An insolvency professional must adhere to the time limits prescribed in the Code and the rules, regulations and guidelines thereunder for insolvency resolution, liquidation or bankruptcy process, as the case may be, and must carefully plan its actions, and promptly communicate with all stakeholders involved for the timely discharge of its duties.”*

- 2.2.11. The DC notes that Clause 13 of the Code of Conduct requires an insolvency professional to adhere to prescribed time limits and carefully plan and promptly communicate with stakeholders to ensure the timely discharge of duties. The NCLAT in its order dated 10.08.2023, observed that the Mr. Anil Kumar Mittal (RP), failed to facilitate the withdrawal of the CIRP application as desired by the sole CoC member, leading to an undue delay in concluding the proceedings.
- 2.2.12. The DC notes that despite the OC's advocate indicating an intent to withdraw the CIRP on 23.01.2023, Mr. Anil Kumar Mittal brought up the issue of his fees before the OC instead of taking appropriate steps to file the withdrawal application. The DC further notes that between January and July 2023, Mr. Anil Kumar Mittal sent eight follow-up emails to the OC regarding the payment of his fees and CIRP expenses, completely disregarding the OC's request for initiating the withdrawal process. The emails clearly indicate that the payment of fees was a priority. The DC observes that such conduct of Mr. Anil Kumar Mittal contributed to the delay in the CIRP withdrawal process.
- 2.2.13. The DC notes that Mr. Anil Kumar Mittal's failure to actively engage and expedite the withdrawal process indicates a contravention of Clause 13 of the Code of Conduct. Moreover, undue delays in the withdrawal process unnecessarily prolonged the CIRP, contrary to the time-bound resolution objective under the Code.
- 2.2.14. In view of the above, the DC notes that Mr. Anil Kumar Mittal's failure to actively engage and expedite the withdrawal process had resulted undue delays in the withdrawal process. The DC finds that Mr. Anil Kumar Mittal has contravened Regulation 7(2)(h) of the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations) read with Clauses 13 of the Code of Conduct.

### **3. Order.**

- 3.1. In view of the above discussion, the DC finds that Mr. Anil Kumar Mittal's claim of Rs. 19 lakh in fees/expenses for recovering a Rs.10 lakh claim in an ailing CD was inappropriate. Additionally, Mr. Anil Kumar Mittal lacked a proactive approach in filing the withdrawal application. Hence Mr. Anil Kumar Mittal contravened Regulation 7(2)(h) of IP Regulation and Clause 13 and Clause 25 of the Code of Conduct.
- 3.2. The DC, in exercise of the powers conferred under Section 220 of the Code read Regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016 and Regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 and Regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016, hereby suspends the registration of Mr. Anil Kumar Mittal for a period of one year.
- 3.3. This Order shall come into force on expiry of 30 days from the date of its issue.
- 3.4. A copy of this order shall be sent to the CoC/ Stakeholder Consultation Committee (SCC) of all the Corporate Debtors in which Mr. Anil Kumar Mittal is providing his services, if any. The

CoC may decide whether to continue his services or not. In case, the CoC decide to discontinue his services, the CoC may file an appropriate application before AA.

- 3.5. A copy of this order shall be forwarded to the Insolvency Professional Agency of Institute of Cost Accountants of India where he 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, for information.
- 3.7. Accordingly, the show cause notice is disposed of.

Dated: 04.02.2025  
Place: New Delhi

Sd/-  
(Jayanti Prasad)  
Whole Time Member  
Insolvency and Bankruptcy Board of India