

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
(Disciplinary Committee)

No. IBBI/DC/169/2023

18th May, 2023

Order

In the matter of Mr. Amit Gupta, Insolvency Professional, under section 220 of the Insolvency and Bankruptcy Code, 2016 read with regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017.

1. Background

- 1.1 The IBBI, in exercise of its powers under section 218 of the Code read with regulation 7(1) and 7(2) of the IBBI (Inspection and Investigation) Regulations, 2017 (Investigation Regulations) appointed an Investigating Authority (IA) to conduct the investigation of Mr. Amit Gupta (IBBI/IPA-001/IP-P00016/2016-2017/10040) in the matter of liquidation process of Hindustan Dorr Oliver Limited (CD). In compliance with regulation 8(1) of Investigation Regulations, IA served notice to Mr. Amit Gupta on 26.12.2022 to provide the copy of documents required. Mr. Amit Gupta provided the required records on 06.01.2023 and 24.01.2023. Thereafter, IA submitted the Investigation Report (IR) on 01.03.2023.
- 1.2 The IBBI issued the Show Cause Notice (SCN) No. COMP-11016/3/2022-IBBI/7/719/341 dated 14.03.2023 to Mr. Amit Gupta, based on the findings in the investigation report in respect of his role as liquidator of CD and material available on record. Mr. Amit Gupta submitted his reply to SCN *vide* email dated 03.04.2023.
- 1.3 The IBBI referred the SCN, response of Mr. Amit Gupta 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. Amit Gupta availed opportunity of personal hearing through virtual mode before the DC on 11.04.2023 where he was represented by Ms. Pooja Mahajan, Advocate assisted by Ms. Mahima Singh, Advocate. Pursuant to aforesaid hearing, the DC sought additional clarifications from Mr. Amit Gupta *vide* email dated 02.05.2023. Mr. Amit Gupta submitted his reply on 12.05.2023.
- 1.4 The DC has considered the SCN, the reply to SCN, submissions of Mr. Amit Gupta, other material available on record.

2. Alleged Contravention, Submissions, Analysis and Findings

- 2.1 The contravention alleged in the SCN and Mr. Amit Gupta's written and oral submissions thereof are summarized as follows:

- 2.2 The Board has observed that Mr. Amit Gupta has charged the excess fess as the liquidator of the CD and held the *prima facie* view that he has *inter alia* violated section 35(1)(d) & (o) and 208(2)(a) & (e), regulation 4(2) of the Liquidation Regulations and regulation 7(2)(h) of IP Regulations read with clauses 1, 3 and 25 the Code of Conduct as specified in the First Schedule of IP Regulations (Code of Conduct).
- 2.3 Mr. Amit Gupta *inter alia* submitted that the computation of fee is as per his understanding of the provisions of the Code and the Liquidation Regulations. Regulation 4(3) of the Liquidation Regulations (as applicable in the present case) provides that “*the liquidator shall be entitled to a fee as a percentage of the amount realized net of other liquidation costs, and of the amount distributed*” as per the table provided under the said Regulation. He also referred to section 34 and section 36 of the Code.
- 2.4 The DC observes that documents submitted are insufficient to conclude that the amount of excess fee charged by Mr. Amit Gupta

3. Order

- 3.1 In view of the foregoing, 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, issues direction to the Board to conduct the inspection with regard to fee charged by Mr. Amit Gupta in all the liquidation process(es) handled/being handled by him as the liquidator and submit the report within two months as per the provisions of the Code and the Regulations made thereunder.
- 3.2 This Order shall come into force immediately.
- 3.3 A copy of this order shall be forwarded to the Indian Institute of Insolvency Professionals of ICAI where Mr. Amit Gupta is enrolled as a member.
- 3.4 A copy of this Order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal.
- 3.5 Accordingly, this SCN is disposed of.

Sd/-

(Ravi Mital)
Chairperson, IBBI

Dated: 18th May, 2023
Place: New Delhi