

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
(Disciplinary Committee)

No. IBBI/DC/117/2022

26th July, 2022

ORDER

This Order disposes the Show Cause Notice (SCN) No. IBBI/IP/R(INSP)/2020/6 dated 23.05.2022 issued to Ms. Padmasri Appana, Insolvency Professional under section 220 of the Insolvency and Bankruptcy Code, 2016 read with regulation 13 of the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017 (Inspection Regulations) and regulation 11 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations 2016 (IP Regulations). Ms. Padmasri Appana is a ICSI Institute of Insolvency Professionals (ICSI-IIP) and an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (Board/IBBI) with Registration No. IBBI/IPA-002/IP-N00220/2017-2018/10672.

1. Developments in relation to resolution of the CDs

- 1.1. The Show cause notice (SCN) issued by the Board includes contraventions of the provisions of the Insolvency and Bankruptcy Code, 2016 (Code) and regulations made thereunder in respect of running the insolvency processes of three corporate debtors (CDs), namely, (i) Aster Building Solutions Pvt. Ltd., (ii) Sanjay Strips Pvt. Ltd. and (iii) R. E. Cables & Conductors Private Limited. As detailed in succeeding paragraphs, the insolvency professional, Ms. Padmasri Appana was involved as Insolvency Resolution Professional/Resolution Professional/Liquidator in all the three CDs.
- 1.2. In case of Aster Building Solutions Pvt. Ltd., Hon'ble NCLT, Hyderabad Bench (AA) *vide* its order dated 23.03.2018 admitted the application filed by M/s. Harindera Cargo Carriers Private Limited under section 9 of the Code and appointed Ms. Padmasri Appana as an Interim Resolution Professional (IRP) who was later confirmed as the Resolution Professional (RP). Ms. Padmasri Appana issued an advertisement and invited prospective resolution applicant to put forward their resolution plans in respect of the CD. In response to the publication, three potential resolution applicants expressed their interest to submit the resolution plans to the CD. Eventually, the Resolution plan of M/s YAP Trading Pvt. Ltd. jointly with M/s Pollent Ecosmart Buildsys Pvt. Ltd. -H1 was approved by the COC which was approved by Hon'ble AA *vide* its order dated 04.06.2019. The resolution applicant (RA) proposed to take over the CD for a total consideration of INR 57,00,00,000/- and proposed to infuse funds as required for payment of unpaid IRP Cost and workmen employee cost on actual basis. Further, RA also provided for the infusion of

working capital for revival of company to the tune of INR 20 crores.

- 1.3. In case of Sanjay Strips Pvt. Ltd., Hon'ble AA *vide* its order dated 13.11.2017 admitted the application filed by Raj Steels under section 9 of the Code and appointed Mr. Sanjay Kumar Ruia as an Interim Resolution Professional who was replaced by Ms. Padmasri Appana as the RP *vide* order dated 22.02.2018 by the Hon'ble AA. As no resolution plan was forthcoming, the CoC passed a resolution for liquidation of the CD which was approved by Hon'ble AA *vide* order dated 02.07.2018 and Ms. Padmasri Appana was appointed as the Liquidator.
- 1.4. In the matter of R. E. Cables & Conductors Private Limited, the Hon'ble AA *vide* order dated 5.12.2018 in CP(B) No.539/9/HDB/2018 had admitted the CIRP against the CD and appointed Ms. Padmasri Appana as the IRP for carrying out the CIRP process and thereafter she was appointed as RP. *Vide* Hon'ble AA's order dated 20.9.2019, she was appointed as the Liquidator of the company. Later, the CD had been ordered to be dissolved by Hon'ble AA on 17.2.2021.

2. Issuance of Show Cause Notice (SCN) and hearing before Disciplinary Committee (DC)

- 2.1.1. The Board, in exercise of its powers under section 218 of the Code read with the Inspection Regulations, appointed an Inspecting Authority (IA) to conduct the inspection *vide* order dated 6.08.2020. The IA under sub-regulation (1) of Regulation 6 of the Inspection Regulations shared the Draft Inspection Report (DIR) with Ms. Padmasri Appana on 14.10.2020 to which Ms. Padmasri Appana submitted reply *vide* email dated 28.10.2020. The IA submitted the Inspection Report to the Board on 25.11.2020.
- 2.1.2. Based on the material available on record including the Inspection Report, the Board issued SCN to Ms. Padmasri Appana on 23.05.2022. The SCN alleged contravention of Section 13(2), Section 17(2)(e), Section 25(2)(d), Section 208(2)(a) & (e), Regulation 27, Regulation 6(1), Regulation 35A of the CIRP Regulations, Regulation 44 of Liquidation Regulations, Regulation 4(4) of Inspection Regulations, Regulation 7(2)(a) & (h) of IP Regulations read with Clause 1, 2, 3, 5, 12, 13, 14, 18 and 19 of the Code of Conduct specified thereunder and IBBI circular no. IP/005/2018 dated January 16, 2018. Ms. Padmasri Appana replied to the SCN on 10.06.2022.

2.1.3. The Board referred the SCN, response of Ms. Padmasri Appana to the SCN and the material available on record, to the DC for disposal of the SCN in accordance with the Code and Regulations made thereunder. Ms. Padmasri Appana was given opportunity of virtual personal hearing before DC on 18.07.2022, which she availed and was accompanied by advocate, M. Maharshi Viswaraj.

3. Alleged contraventions and submissions of the IP

Contraventions alleged in the SCN and Ms. Padmasri Appana's submissions thereof are summarized below:

In the matter of Aster Building Solutions Private Limited

3.1. Contravention with regard to delay in making Public Announcement

3.1.1. Ms. Padmasri Appana was appointed as the IRP in the CIRP of Aster Building Solutions Private Limited by Hon'ble NCLT, Hyderabad Bench (AA) *vide* order dated March 23, 2018 [CP (IB) No. 37/9/HDB/2018]. It is observed from the admission order dated 23.03.2018, that on the basis of the consent (Form-2) given by Ms. Padmasri Appana, her name was proposed by the petitioner, *i.e.*, Harindera Cargo Carriers Pvt. Ltd. to act as IRP.

3.1.2. It is, however, noted that the public announcement was made by Ms. Padmasri Appana only on 12.07.2018, *i.e.*, after 110 days of her appointment as IRP.

3.1.3. Section 13(2) of the Code states that the public announcement shall be made immediately after the appointment of the interim resolution professional. Further, Regulation 6(1) read with Regulation 40A of CIRP Regulations specifies that an insolvency professional shall make a public announcement within 3 days of his appointment as IRP. Clause 13 of the Code of Conduct mandates an IP to adhere to the time limits prescribed in the Code and the rules, regulations and guidelines thereunder.

3.1.4. In view of the above, the Board found that Ms. Padmasri Appana has inter-alia violated section 13(2), Regulation 6(1) of CIRP Regulations and Clause 13 of the Code of Conduct as specified in the First Schedule of IP Regulations (Code of Conduct).

3.2. Submissions of Ms. Padmasri Appana

- 3.2.1. Ms. Padmasri Appana submitted that though the Hon'ble AA passed admission order on 23.03.2018, the said order was intimated to her only on 01.06.2018. Till 01.06.2018, none of the parties to the petition informed her about the order passed by Hon'ble AA. The Registry of Hon'ble AA also did not inform her about the passing of order till then.
- 3.2.2. Ms. Padmasri Appana further submitted that the Operational Creditor (OC) filed IA No.216 of 2018 in which it was categorically mentioned that they had informed her about the passing of admission order by Hon'ble AA only on 01.06.2018. The order passed by the Hon'ble AA in IA No. 216 of 2018 on 10.07.2018 reflects the averment made by the OC.
- 3.2.3. Ms. Padmasri Appana further submitted that no funds were made available to her so as to enable her to cause publication of public announcement notice. As such, Ms. Padmasri Appana filed a memo dated 02.07.2018 before Hon'ble AA seeking directions. The Hon'ble AA vide order dated 10.07.2018 directed Ms. Padmasri Appana to utilize the funds of the CD. She further submitted that the Hon'ble AA passed the order in IA No. 684/2018 dated 18.12.2018 wherein it was mentioned that the period from 23.03.2018 to 10.07.2018 was excluded for calculating the CIRP Period. The Hon'ble AA categorically observed that though the order of admission was passed on 23.03.2018, the CIRP was actually started on 10.07.2018.
- 3.2.4. Ms. Padmasri Appana further submitted there was no willful or intentional delay on her part in causing the publication of public announcement notice.

3.3. Summary Findings

- 3.3.1. The DC notes the submission of Ms. Padmasri Appana that though the admission order was passed on 23.03.2018, she got the intimation of the said order only on 01.06.2018. The DC further noted that till 01.06.2018, none of the parties to the petition informed her about the admission order passed by Hon'ble AA. However, the DC is of the view that Ms. Padmasri Appana has been unreasonable in delaying the process further after 01.06.2018 and allowing the management of the CD to continue. Ms. Padmasri Appana had submitted that the process could not be started as the creditors did not provide for expenses and hence, she had to go to the AA for directions while clearly knowing that the Code expressly states that

insolvency resolution process cost is a priority. Without approaching AA, Ms. Appana could have used fund of CD for making public announcement. During the personal hearing she pleaded, due to lack of clarity to her mind about possibility of utilization of funds of CD, she approached AA for getting the authorization. In fitness of things, she should have been aware of the provisions of the statute under which she is obligated to run the due processes, yet as she pursued the process and solicited clarity from AA, a lenient view is warranted on the issue.

3.4. Contravention No. II with regard to making misleading representation in CoC meeting

- 3.4.1. The SCN has reported that Ms. Padmasri Appana made misleading statements before the Committee of Creditors in its 1st meeting held on August 4, 2018 that CIRP of the CD started from 10.07.2018 when AA vide order dated 10.07.2018 permitted her to use CD's funds. However, there is nothing in the said order to indicate any change in the insolvency commencement date (ICD).
- 3.4.2. Clause 1 of the said Code of Conduct mandates that an IP must maintain integrity by being honest, straightforward in all professional relationships. Clause 2 of the said Code of Conduct further required an IP to not misrepresent any facts or situations and should refrain from being involved in any action that would bring disrepute to the profession. Clause 12 of the said Code of Conduct states that an IP must not conceal any material information or knowingly make a misleading statement to the Board, the AA or any stakeholder, as applicable.
- 3.4.3. In view of the above, the Board is of the prima facie view that Ms. Padmasri Appana have inter-alia violated Clause 1, 2, and 12 of the Code of Conduct.

3.5. Submissions of Ms. Padmasri Appana

- 3.5.1. Ms. Padmasri Appana submitted that she did not make any false or misleading statement or representation before Committee of Creditor Meeting. She stated during the hearing that she merely explained what happened in between 23.03.2018 to 10.07.2018 in the 1st COC Meeting.

3.5.2. Ms. Padmasri Appana further submitted that the Hon'ble AA passed order in IA No. 684/2018 dated 18.12.2018 wherein it was mentioned that the period from 23.03.2018 to 10.07.2018 was excluded for calculating the CIRP Period. The Hon'ble AA categorically observed that though the order of admission was passed on 23.03.2018 but the CIRP actually started on 10.07.2018.

3.6. Summary Findings

3.6.1. The DC notes the submission made by Ms. Padmasri Appana that she did not make any false or misleading statement or representation before Committee of Creditor Meeting. It is evident from the minutes of the Ist CoC meeting that she merely explained what happened in between 23.03.2018 to 10.07.2018. In view of the submissions made by Ms. Padmasri Appana above, the DC notes that alleged contravention on this ground is not sustainable.

3.7. Contravention No. III with regard to failure to file avoidance application

3.7.1. It is observed that in the 7th CoC meeting held on 08.02.2019, that the transaction auditors presented their findings of draft transaction audit report to CoC. The draft inter-alia mentions that *"There are some entities (including PEBSL), the transaction with whom appear to be falling under the ambit of preferential transactions. Some of the transactions during the audit period are routed through non-consortium banks. The movement of trade receivables in r/o some of the parties do not appear to arise out of genuine sales / purchase transactions through the goods produced or services rendered...."*

3.7.2. Further the transaction auditors in its the final report submitted on March 25, 2019, inter-alia stated that *"The company has entered into a large number of transactions classified as purchase, sales and set offs (adjustments) with connected entities as stated under the para PUFEE Transactions. These transactions deviate from strict principles prescribed for determination on arm's length basis. Company has been operating their bank accounts outside the consortium...."*

3.7.3. It is observed that even though avoidance transactions were pointed out by the transaction auditors appointed by Ms. Padmasri Appana, yet she failed to file application before AA for necessary orders.

3.7.4. Regulation 35A (1) of CIRP Regulations provides timelines for forming opinion whether the CD has been subjected to any transaction covered under section 43, 45, 50 or 66 of the Code and Regulation 35A (2) of CIRP Regulations provides timelines for determination of PUFEE transactions in the CD subsequent to forming opinion and Regulation 35A (3) of CIRP Regulation provides for filing of necessary applications before AA for orders after determination of such transactions.

3.7.5. In view of the above, the Board is of the prima facie view that Ms. Padmasri Appana have inter-alia violated Regulations 35A (1), 35A (2) and 35A (3) of CIRP Regulations.

3.8. Submissions of Ms. Padmasri Appana

3.8.1. Ms. Padmasri Appana submitted that by the time 7th CoC Meeting was conducted, the auditor did not furnish complete and definite observations vis-à-vis PUFEE Transactions. The auditor sought some more information from the ex-management during the presentation in CoC meeting.

3.8.2. Ms. Padmasri Appana highlighted the relevant portion of the minutes of 7th CoC Meeting which is reproduced below: -

Presentation on PUFEE / Transaction Audit by Forensic auditor

“The representatives of the transaction auditor (GSA & Associates - GSA) and the Corporate Debtor were then invited to the meeting. The representatives of GSA presented their broad findings of the draft transaction audit report as under:-

(1) There are some entities (including PEBSL), the transaction with whom appear to be falling under the ambit of preferential transactions.

(2) Some of the transactions during the audit period are routed through non-consortium banks.

(3) The movement of trade receivables in r/o some of the parties do not appear to arise out of genuine sales / purchase transactions through the goods produced or services rendered.

(4) Reduction in inventory.

(5) It is also mentioned that the trading activity is not reflected in the ERP.

The RP and the CoC requested GSA to furnish their definitive observations on their

findings, by obtaining further information / documentation from the CD, if required. This is to facilitate the RP to take a view on qualification of the observations under relevant sections of IBC.

GSA stated that in order to ascertain the possible PUFÉ angle in the transactions highlighted by them, more evidence / documentation would be required. The representatives of the CD are requested to provide the necessary inputs to GSA, through the RP, so as to enable finalization of the transaction and forensic audit reports.

Later the committee meeting was adjourned for lunch break”

3.8.3. Thus, Ms. Padmasri Appana submitted that the minutes clearly show that by the date of 7th CoC meeting the Transaction Audit report was not made ready. The complete and final Transaction Audit Report was made ready only on 25.03.2019.

3.8.4. Ms. Padmasri Appana stated that the conclusion of the Transaction Audit Report is that she was advised to obtain Legal Opinion as complex legal issues are involved. Accordingly, she obtained Legal Opinion from Shri. V.K.Sajith, Advocate. The Legal Opinion also shows that it is not advisable for filing application under Sections 43, 45, 50 of the Code. In view of the above facts and circumstances, Ms. Padmasri Appana decided not to file Avoidance Application.

3.9. Summary Findings

3.9.1. The DC notes the submission of Ms. Padmasri Appana that the observations made by the Auditors in the Transaction Audit Report were not conclusive as she was advised in the Report to seek legal opinion as complex legal issues were involved therein. Accordingly, Ms. Padmasri Appana obtained legal opinion from advocate - Shri. V.K.Sajith, The DC noted that the legal opinion also showed that it was not advisable for filing application under Sections 43, 45, 50 of the Code. In view of the above facts and circumstances, the DC finds that no contravention is made out by Ms. Padmasri Appana.

In the matter of Sanjay Strips Private Limited

3.10. Contravention No. I with regard to conducting the liquidation process

3.10.1. It was observed that the CD has been in liquidation for over 2 years. There is nothing on

record to show that Ms. Padmasri Appana took any action for conducting the liquidation process or filed application before the AA for directions on non-cooperation etc.

3.10.2. Regulation 44(1) of IBBI (Liquidation Process) Regulations, 2016 (Liquidation Regulations) inter-alia then provided that the liquidator shall liquidate the CD within a period of two years from liquidation commencement date.

3.10.3. In view of the above, the Board is of the prima facie view that you have inter-alia violated Regulation 44(1) of Liquidation Regulations and clause 13 of code of conduct.

3.11. Submissions of Ms. Padmasri Appana

3.11.1. Ms. Padmasri Appana submitted that she was appointed as RP vide Order dated 22.02.2018. The Hon'ble AA passed Order in IA No. 147/2018 on 02.07.2018 ordering Liquidation of the Corporate Debtor. She stated that the Corporate Debtor has no other properties except the property which was secured to M/s. Religare Fininvest limited. The M/s. Religare Fininvest Limited did not relinquish their security Interest. The CoC in its 4th CoC Meeting resolved that the fees and expenses payable to the IRP and RP will be paid from the assets of the Company after Liquidation.

3.11.2. Since there were no any other assets except secured asset and the secured creditor did not relinquish their security Interest, no assets are available for liquidation. No amount of money was paid by the creditor towards professional fee and expenses.

3.11.3. Ms. Padmasri Appana submitted that the creditors did not co-operate and failed to pay the money to meet the legal expenses and other expenses and till date her professional fee is pending. As the Creditors were not co-operative, it became very difficult for her to conclude the Liquidation Process. The corporate debtor was not having assets which were available for liquidation.

3.12. Summary Findings

3.12.1. The DC notes that the IP is vested with the responsibility to carry out the liquidation exercise and seek cooperation of the stakeholders and if need be, directions of the AA in doing so. The DC noted that Ms. Padmasri Appana had not taken any further action to approach the stakeholders or the AA for directions. The said inaction on part of Ms. Padmasri Appana for not taking action in taking the liquidation process forward and ignoring the timelines amounts to contravention of the Code of Conduct of the First

schedule of the Insolvency Professional regulations.

3.13. Contravention No. II with respect to non-cooperation with the IA

- 3.13.1. It is also noted that the IA in draft inspection report dated 14th October 2020 had sought from Ms. Padmasri Appana the records of the liquidation process for the aforesaid CD viz. constitution of SCC, preliminary report, asset memorandum, progress reports, details of asset sale, distribution of proceeds, applications made to the AA, disclosures to IPA, engagement letter of registered valuers, copies of the confidentiality undertakings of stakeholders taken before sharing of confidential information, etc. However, the aforementioned documents were not provided to IA by Ms. Padmasri Appana.
- 3.13.2. In terms of Regulation 4(4) of the Inspection Regulations, it shall be the duty of the service provider to produce before the IA documents, record, or information in his custody or control and furnish to the IA such statements and information relating to its activities within such time as the IA may require.
- 3.13.3. In view of the above, the Board is of the prima facie view that Ms. Padmasri Appana have inter-alia violated Regulation 4(4) of Inspection Regulations and Clause 18 and 19 of the Code of Conduct.

3.14. Submissions of Ms. Padmasri Appana

- 3.14.1. Ms. Padmasri Appana submitted that there was not any willful negligence on her part in not submitting the relevant documents. She further submitted that there were no assets of Corporate Debtor available for liquidation. The Creditors did not pay any amount of money to meet the expenses and towards professional fee. As there was no support from the creditors, Ms. Padmasri Appana faced lot of difficulties in the process of liquidation. Unless the creditors co-operated, she could not proceed with and complete the liquidation process effectively. Due to non-availability of any assets other than secured asset, liquidation could not be done. As such Ms. Padmasri Appana could not furnish any information regarding liquidation process.

3.15. Summary Findings

- 3.15.1. The DC notes that the requisite documents were not provided to IA by Ms. Padmasri Appana. Regulation 4(4) of the Inspection Regulations mandates that it shall be the duty

of the service provider to produce before the IA documents, record, or information in his custody or control and furnish to the IA such statements and information relating to its activities within such time as the IA may require. The DC notes that Ms. Padmasri Appana should have shared whatever little information she had about the CD to the IA. The DC further is of the view that this conduct of Ms. Padmasri Appana shows utter disregard to the procedure established under the Code and the regulations thereof. Thus, the DC is of the view that this amounts to violation of regulation 4(4) of Inspection Regulations and Clause 18 and 19 of the Code of Conduct.

3.16. Contravention No. III with respect to failure to appoint registered valuers

- 3.16.1. It is observed that registered valuers were not appointed by Ms. Padmasri Appana in the prescribed timelines. Regulation 27 of the CIRP Regulations provides that the resolution professional shall, within seven days of his appointment but not later than forty-seventh day from the insolvency commencement date, appoint two registered valuers to determine the fair value and the liquidation value of the CD in accordance with Regulation 35 of CIRP Regulations. Further, Section 25(2)(d) of the Code casts the duty on an insolvency professional to appoint accountants, legal or other professionals in the manner specified by the Board.
- 3.16.2. In view of the above, the Board is of the prima facie view that Ms. Padmasri Appana have inter-alia violated Section 25(2)(d) of the Code, Regulation 27 of CIRP Regulations and Clause 3, 5 and 13 of Code of Conduct.

3.17. Submissions of Ms. Padmasri Appana

- 3.17.1. Ms. Padmasri Appana submitted that she was appointed as Resolution Professional vide Order Dated 22.02.2018. And prior to her appointment as Resolution Professional, Shri. Sanjay Kumar Ruia was appointed as IRP. Shri. Sanjay Kumar Ruia during his tenure as IRP, appointed two valuers namely, P.Kanaka Rao and G.S.Mittal. The Valuers submitted valuation reports to Shri. Sanjay Kumar Ruia. As such, the question of appointment of valuers by Ms. Padmasri Appana does not arise and because of that reason only she did not appoint any valuers and the same is inferred from the 4th COC meeting minutes.

3.18. Summary Findings

3.18.1. The DC notes that the submission of Ms. Padmasri Appana that prior to her appointment as RP, the IRP - Shri. Sanjay Kumar Ruia had appointed two valuers namely, P.Kanaka Rao and G.S.Mittal. The Valuers submitted valuation reports to Shri. Sanjay Kumar Ruia. As the valuation report was already in place, Ms. Padmasri Appana did not appoint any valuer.

3.19. Contravention No. IV with respect to failure in filing relationship disclosure

3.19.1. Ms. Padmasri Appana was appointed as the RP in the aforementioned CD vide AA's order dated 22.02.2018. It is observed from the website of ICSI Institute of Insolvency Professionals with which she was enrolled, that disclosures regarding her appointment as well as appointment of other professionals in the matter of CIRP of the aforementioned CD have been made thrice on 19.05.2018. However, the disclosures are blank and no details have been mentioned therein.

3.19.2. The Board Circular No. IP/005/2018 dated January 16, 2018, mandates IP to disclose his relationship, if any, with CD, with other professional(s) engaged by him to Insolvency Professional Agency of which he is a member, within 3 days of appointment.

3.19.3. In view of the above, the Board is of the prima facie view that Ms. Padmasri Appana have inter-alia violated IBBI circular no. IP/005/2018 dated 16.01.2018, and Clause 5 and 13 of the Code of Conduct.

3.20. Submissions of Ms. Padmasri Appana

3.20.1. Ms. Padmasri Appana submitted that she had not appointed any professionals during her tenure as RP and Liquidator. Therefore, the question of furnishing the details of professionals and her relationship with the professionals does not arise. As such she had not disclosed her relationship with the Professionals.

3.20.2. Further, she stated that she had tried thrice to file disclosure of RP relationship with CD but without success.

3.21. Summary Findings

3.21.1. The DC notes that disclosures regarding her appointment as well as appointment of other

professionals in the matter of CIRP of the aforementioned CD have been made thrice by Ms. Padmasri Appana on 19.05.2018, however, the disclosures were blank and no details have been mentioned therein.

3.21.2. The DC notes that the Circular no. IP/005/2018 dated 16.01.2018 issued by the IBBI provides for disclosures by Insolvency Professionals and other Professionals appointed by Insolvency Professionals conducting Resolution Processes which states that-

“8. The disclosures shall be made in respect of ongoing resolution processes as on date and all subsequent resolution processes. The disclosures due on date in respect of the ongoing processes shall be made to the respective Insolvency Professional Agency by 31st January 2018.”

3.21.3. Ms. Padmasri Appana has stated that disclosures were made to the IPA however, it is noted that the disclosures were blank. In view of the same, the DC notes that Ms. Padmasri Appana should have been more careful and exercised due caution.

In the matter of R E Cables & Conductors Private Limited

3.22. Contravention with respect to failure to provide assistance and cooperation to authorities of the Registrar of Companies, Hyderabad

3.22.1. The Board was also in receipt of a grievance from the Mr. Josekutty V E on behalf of Registrar of Companies, Hyderabad in the matter of R E Cables & Conductors Private Limited. The Board had investigated the said grievance on the basis of material available on record and it is observed as under Section 17(2)(e) of the Code mandates an IP to *"be responsible for complying with the requirements under any law for the time being in force on behalf of the corporate debtor."*

3.22.2. It has been observed that Ms. Padmasri Appana have not been replying to the various letters sent by Registrar of Companies, Hyderabad in her capacity as the Liquidator in the aforementioned CD and she had failed to provide assistance and cooperation to authorities of the Registrar of Companies, Hyderabad. It has further been informed that Ms. Padmasri Appana had failed to furnish the details of the assets under her possession and the status of the liquidation with realizations made out of the assets of the CD to the Competent Authority in terms of the Companies Act, 2013. As an insolvency professional, Ms. Padmasri Appana is responsible for complying with all statutory duties

under law on behalf of the CD.

3.22.3. In view of the above, the Board is of the prima facie view that Ms. Padmasri Appana had inter-alia violated Section 17(2)(e) with Clause 1, 2 and 14 of the Code of Conduct.

3.23. **Submissions of Ms. Padmasri Appana**

3.23.1. Ms. Padmasri Appana submitted that the entire records of the Corporate Debtor were submitted to the ROC on 13.12.2019 as per in their letter dt. 25.11.2019. She had also furnished all the information available with her to the ROC. Ms. Padmasri Appana stated that she had submitted detailed explanation along with documents to the notice dt. 22.09.2021 issued through e-mail by the Liquidation Division IBBI.

3.23.2. Further, Ms. Padmasri Appana submitted that a mail was received on 15.07.2020 & she replied on 16.07.2020 mentioning that the requested records in hard copies were submitted on 08.01.2020 as per notice dt. 25.11.2019 and attached proof of acknowledgment.

3.23.3. Ms. Padmasri Appana stated that it can be seen from the mails, initially the correspondence was between ROC & Director of the Corporate Debtor. In this connection she was informed by various mails that all available records were already submitted. In spite of this, ROC had sent notices and ROC issued summons to the liquidator by letter no. ROCH/AROC(H)206/Co.53352/685 dt.17.06.2021 and the liquidator was discharged on 17.02.2021 by the orders of Hon'ble AA.

3.24. **Summary Findings**

3.24.1. The DC notes the submission and other facts related to this contravention and come to conclusion that non-cooperation with the RoC should have been avoided as she is duty bound to extend all possible assistance/information being sought by the relevant authorities. In case, some of the documents were not under her possession, she was required to respond to them on status of documents being available/not available with her.

3.24.2. Regarding dissolution issue, the DC also notes that the RoC had already moved another application bearing no. 210/2022 before the AA for recalling/setting aside the dissolution order and the same is pending adjudication before the AA.

4. Order

- 4.1. In view of the submission made by Ms. Padmasri Appana, and materials available on record, DC notes that Ms. Padmasri Appana has contravened, as observed hereinabove, with respect to delay made in public announcement, not taking required steps for taking forward liquidation proceeding and not providing information sought to IA.
- 4.2. The DC notes that aforesaid contraventions on the part of Ms. Padmasri Appana are procedural in nature and largely resulted due to ignorance of provisions of the Code and regulations made thereunder. Hence, DC warns Ms. Padmasri Appana to be more careful in handling pending assignments and Ms. Padmasri Appana is further directed to undergo pre-registration educational course specified under regulation 5(b) of the IP Regulations from the IPA where she is registered. Ms. Padmasri Appana shall accept or undertake an assignment under the Code only after successful completion of the pre-registration education course.
- 4.3. The Adjudication Division of the IBBI is directed to keep this order in active record as negative points against her warranting continuous vigil, and follow other cases being handled by her to deter her from making such mistakes.
- 4.4. The Order shall come into force immediately in view of para 4.2 above.
- 4.5. A copy of this order shall be forwarded to the ICSI Institute of Insolvency Professionals (ICSI-IIP) where Ms. Padmasri Appana is enrolled as a member.
- 4.6. 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.

Accordingly, the show cause notice is disposed of.

-sd-

(Sudhaker Shukla)

Whole Time Member, IBBI

Dated: 26th July, 2022

Place: New Delhi