

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA  
(Disciplinary Committee)

No. IBBI/DC/64/2020

7<sup>th</sup> January, 2021

**Order**

**In the matter of Mr. Kedarram Ramratan Laddha, Insolvency Professional (IP) under Regulation 11 of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016**

This Order disposes of the Show Cause Notice (SCN) No. IBBI/IP/MON/2020/8 dated 27<sup>th</sup> August, 2020 issued to Mr. Kedarram Ramratan Laddha, 501, Shajanand Shopping Centre, Shahibaug, Ahmadabad - 380004 who is a Professional Member of the Indian Institute of Insolvency Professional of ICAI (IPA) and an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (IBBI) with Registration No. IBBI/IPA-001/IP-P00586/2017-2018/11115.

**Background**

- 11 The IBBI had issued the SCN dated 27<sup>th</sup> August, 2020, to Mr. Kedarram Ramratan Laddha for accepting the assignment as an Interim Resolution Professional (IRP) in corporate insolvency resolution process (CIRP) of Regency Linx Exports Private Limited and Premier Futsal Management Private Limited and as a Liquidator in the liquidation process of Steel Konnect (India) Private Limited after 31<sup>st</sup> December, 2019 without holding a valid Authorisation for Assignment (AFA) issued to him by his IPA.
- 12 Mr. Laddha submitted reply to the SCN vide email dated 4<sup>th</sup> September, 2020. The IBBI referred the SCN, reply of Mr. Laddha 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. The IP availed an opportunity of personal hearing before the DC on 10<sup>th</sup> September, 2020.

**Show Cause Notice**

2. The SCN issued by IBBI alleged contravention of sections 208(2)(a) and 208(2)(e) of the Insolvency and Bankruptcy Code, 2016 (Code), regulations 7(2)(a), 7(2)(h) and 7A of the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations) read with clauses 1, 2, 11, 12 and 14 of the Code of Conduct for Insolvency Professionals contained in the First Schedule of the IP Regulations against Mr. Laddha for accepting the assignment of IRP in CIRP of Regency Linx Exports Private Limited and Premier Futsal Management Private Limited for which public announcement was made on 1<sup>st</sup> February, 2020 and 22<sup>nd</sup> February, 2020 respectively and of Liquidator in the liquidation process of Steel Konnect (India) Private Limited for which public announcement was made on 11<sup>th</sup> February, 2020 without holding a valid AFA from the IPA.

## Written and oral submissions by Mr. Kedarram Ramratan Laddha

3. Mr. Laddha's submissions made in his written reply and during the course of personal hearing are summarized as follows.
  - 3.1 Mr. Laddha in his reply submitted as follows.
    - (i) The pronouncements for CIRP in Regency Linx Exports Private Limited and Premier Futsal Management Private Limited was made on 25<sup>th</sup> January, 2020 and 31<sup>st</sup> January, 2020 respectively and for liquidation in Steel Konnect (India) Private Limited was made on 28<sup>th</sup> January, 2020 for which consent was given at the time of filing of petition which was much before the due date in the notification for AFA. Accordingly, he was under *bonafide* belief that AFA was not required as it was a continuing process and provisions of Regulation 7A of the said IP Regulations 2016 was not applicable at the time when consent was given for appointment as IRP and Liquidator for respective corporate debtors.
    - (ii) The error has occurred inadvertently and unintentionally resulting from oversight/misunderstanding of the newly incorporated provisions.
    - (iii) The AFA has been applied on 4<sup>th</sup> August, 2020 before the issuance of SCN.

## Analysis and Findings

4. The DC after taking into consideration the SCN, the reply to SCN, the oral and written submission of Mr. Kedarram Ramratan Laddha and also the provisions of the Code, rules and the regulations made thereunder finds as follows.
  - 4.1 The DC notes that the provisions of the Code and regulations are spelt out in a plain and unambiguous language. Regulation 7A of IP regulations requires for any IP to have AFA before undertaking any assignment after 31<sup>st</sup> December, 2019. Regulation 7A reads as follows:

*“7A. An insolvency professional shall not accept or undertake an assignment after 31st December, 2019 unless he holds a valid authorisation for assignment on the date of such acceptance or commencement of such assignment, as the case may be:  
Provided that provisions of this regulation shall not apply to an assignment which an insolvency professional is undertaking as on-  
(a) 31st December, 2019; or  
(b) the date of expiry of his authorisation for assignment.”*
  - 4.2 Thus, it is clear from the said Regulation that one of the essential conditions for undertaking any assignment by an IP is that he should have a valid AFA which is issued by the IPA with which he is enrolled as a professional member. In other words, without AFA, an IP is not eligible to undertake assignments or conduct various processes thereof. Regulation 7A was inserted in the IP Regulations vide notification dated 23<sup>rd</sup> July, 2019, much before 31<sup>st</sup> December, 2019. Adequate time was given to the professionals to obtain AFA from respective IPAs.
  - 4.3 The bye laws of Indian Institute of Insolvency Professional of ICAI defines in para

4(1)(aa) the expression “Authorisation for Assignment” as an authorisation to undertake an assignment, issued by an insolvency professional agency to an insolvency professional, who is its professional member, in accordance with its bye-laws regulation. An application for grant of AFA can be made to the IPA under para 12A of said bye laws.

- 44 Further, Section 208 of the Code also casts an obligation to abide by the code of conduct and comply with all requirements and terms and conditions specified in the byelaws of the insolvency professional agency of which he is a member. Section 208(2) provides as follows:

*“208. Functions and obligations of insolvency professionals.-*

*(2) Every insolvency professional shall abide by the following code of conduct: –*

*(a) to take reasonable care and diligence while performing his duties;*

*(b) to comply with all requirements and terms and conditions specified in the byelaws of the insolvency professional agency of which he is a member; and*

*(e) to perform his functions in such manner and subject to such conditions as may be specified.”*

- 45 The DC further notes that the certificate of registration granted to an IP is subject to the condition that he should follow at all times the provisions of the Code and Regulations and the bye-laws of Insolvency Professional Agency of which the IP is a member and also follow the Code of Conduct specified in the First Schedule to the IP Regulations. In this regard, clauses(a) and (h) of regulation 7 (2) of the IP Regulations provide as follows:

*“7. Certificate of registration.*

*(2) The registration shall be subject to the conditions that the insolvency professional shall –*

*(a) at all times abide by the Code, rules, regulations, and guidelines thereunder and the bye-laws of the insolvency professional agency with which he is enrolled;*

*(h) abide by the Code of Conduct specified in the First Schedule to these Regulations;”*

- 46 The credibility of the processes under the Code depends upon the observance of the Code of conduct by the IRP/RP during the process. Section 208(2) of the Code provides that every IP shall take reasonable care and diligence while performing his duties and to perform his functions in such manner and subject to such conditions as may be specified. Further, the Code of Conduct specified in the First Schedule of the IP regulations enumerates a list of code of conduct for insolvency professionals including maintaining of integrity and professional competence for rendering professional service, representation of correct facts and correcting misapprehension, not to conceal material information and not to act with *mala fide* or with negligence.

- 47 In the present matter, Mr. Laddha was appointed in following capacities :-

(i) IRP in CIRP of Regency Linx Exports Private Limited by National Company Law

Tribunal, Division Bench, Chennai vide order dated 25<sup>th</sup> January, 2020 on application under section 9 of the Code by Bindal Agencies Private Limited claiming to be operational creditor and public announcement was made by IRP on 1<sup>st</sup> February, 2020 for which acceptance was given by Mr. Laddha on 21<sup>st</sup> August, 2019 which is prior to cut off date i.e. 31<sup>st</sup> December 2019.

- (ii) IRP in CIRP of M/s Premier Futsal Management Private Limited by National Company Law Tribunal, Division Bench-I, Chennai vide order dated 31<sup>st</sup> January, 2020 on application under section 9 of the Code by M/s My Fare Tours & Travel Private Limited claiming to be operational creditor and public announcement was made by IRP on 22<sup>nd</sup> February, 2020 for which acceptance was given by Mr. Laddha on 21<sup>st</sup> December, 2018 which is prior to cut off date i.e. 31<sup>st</sup> December 2019.
- (iii) Liquidator in liquidation of Steel Konnect (India) Private Limited by National Company Law Tribunal, Ahmedabad Bench, Court-1 vide order dated 28<sup>th</sup> January 2020 on application under section 33 of the Code by resolution professional Mr. Ramchandra Dallaram Choudhary on the basis of resolution passed by Committee of Creditors (CoC) on 16<sup>th</sup> December 2019 to appoint Mr. Laddha as Liquidator. The CoC decided to liquidate the CD in its 4<sup>th</sup> meeting dated 10<sup>th</sup> November, 2017 and the acceptance was given by Mr. Laddha on 30<sup>th</sup> July 2019 which was long before the cut off date i.e. 31<sup>st</sup> December 2019.

- 48 The DC notes that Mr. Laddha had applied on 4<sup>th</sup> August 2020 i.e. after approximately 8 months of enforcement of notification requiring every IP to hold AFA for conduct of process under the Code.
- 49 The DC finds that an order by the Disciplinary Committee of the IPA dated 1<sup>st</sup> December 2020 has been passed disposing the SCN issued by IPA dated 31<sup>st</sup> August 2020 to Mr. Laddha, on the issue of accepting assignment as IRP after 31.12.2019 without holding a valid AFA in the CIRP of Regency Linx Exports Private Limited and Premier Futsal Management Private Limited and as Liquidator in the liquidation process of Steel Konnect (India) Private Limited, wherein Mr. Laddha was not held guilty of Professional Misconduct as Mr. Laddha had given his consent prior to 1<sup>st</sup> January, 2020 and appointment of IRP and Liquidator was confirmed by the AA based on his written consent.

## **Order**

5. In view of the fact that the Disciplinary Committee of the Indian Institute of Insolvency Professional of ICAI has already passed order in this matter, the DC, in exercise of the powers conferred under Regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016, disposes of the SCN without any direction.
- 5.1 A copy of this order shall be forwarded to the Indian Institute of Insolvency Professional of ICAI where Mr. Laddha is enrolled as a member.
- 5.2 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.

6. Accordingly, the show cause notice is disposed of.

Dated: 7<sup>th</sup> January, 2021

Place: New Delhi

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(Dr. Mukulita Vijayawargiya)

Whole Time Member, IBBI