

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
(Disciplinary Committee)

No. IBBI/DC/214/2024

13 May 2024

ORDER

This Order disposes of the Show Cause Notice (SCN) No. COMP-11012/139/2023-IBBI/824/1598 dated 07.12.2023 issued to Mr. Vineet Aggarwal under section 219 of the Insolvency and Bankruptcy Code, 2016 (Code) read with regulation 11 and 12 of the IBBI (Inspection and Investigation) Regulations, 2017 (Investigation Regulations). Mr. Vineet Aggarwal is an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with registration No. IBBI/IPA-001/IP-P00475/2017-2018/10818 and is a Professional Member of the Indian Institute of Insolvency Professionals of ICAI (IIIP-ICAI) having residential address registered with IBBI at Plot No. 2, Sampurnanand Nagar, Sagra, Varanasi, Uttar Pradesh- 221010.

1. Background

- 1.1. The SCN deals with the contraventions by Mr. Vineet Aggarwal in relation to alleged procedural lapses in conduct of proceedings of following two Corporate Debtors (CDs):
 - (i) M/s Fortune Graphics Limited (CD-1) and
 - (ii) M/s Nu Tek India Limited (CD-2).
- 1.2. In respect of M/s Fortune Graphics Limited (CD-1), the Hon'ble National Company Law Tribunal, Principal Bench, New Delhi (AA) *vide* order dated 04.05.2018 admitted the application filed by Daimler Financial Services Private Limited (Financial Creditor/FC) under section 7 of the Insolvency and Bankruptcy Code, 2016 (Code), for initiating Corporate Insolvency Resolution Process (CIRP). *Vide* same order Mr. Vineet Aggarwal was appointed as Interim Resolution Professional (IRP) who was later confirmed as Resolution Professional (RP). The AA passed order for liquidation of CD-1 on 10.04.2019 and appointed Mr. Vineet Aggarwal as liquidator. The AA *vide* its order dated 25.08.2023, has referred the matter to IBBI to take appropriate action against the liquidator due to his repetitive non-appearance before the bench.
- 1.3. In respect of M/s Nu Tek India Limited (CD-2), the Hon'ble National Company Law Tribunal, New Delhi (AA) admitted the application under section 7 of the Code, *vide* order dated 23.08.2019, for initiating CIRP. Initially, Mr. Arun Jain was appointed as Interim Resolution Professional (IRP) of CD-2. Thereafter, appointment of Mr. Vineet Aggarwal as Resolution Professional (RP) was confirmed by AA *vide* order dated 01.10.2019. Since CIRP failed, liquidation process was initiated against CD-2 *vide* order dated 22.06.2020 of AA and Mr. Vineet Aggarwal was appointed as liquidator of CD-2. The Board received a complaint dated 26.08.2023 against Mr. Vineet Aggarwal regarding alleged contraventions in handling the processes of CD-2.
- 1.4. Pursuant to aforesaid observation by the AA in CD-1 and complaint received in CD-2 respectively, the Board appointed an Investigating Authority (IA) to conduct an investigation

against Mr. Vineet Aggarwal in the matters related to CD-1 and CD-2. Accordingly, notices under regulation 8(1) of the Investigation Regulations were issued to Mr. Vineet Aggarwal on 27.09.2023 and 09.11.2023 respectively with a request to clarify his viewpoint on the contraventions under examination through two separate investigations. However, no response, whatsoever, from Mr. Vineet Aggarwal was received in connection with either of the investigation notices. Failing to get any response, based on material available, the IA submitted investigation report to the Board.

- 1.5. Based on the findings in the investigation reports in respect of role of Mr. Vineet Aggarwal as IRP/RP/liquidator in the CIRP/liquidation process of CD-1 and CD-2, the IBBI issued the SCN to Mr. Vineet Aggarwal on 07.12.2023. Mr. Vineet Aggarwal submitted his reply to the SCN on 21.12.2023.
- 1.6. The IBBI referred 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. Vineet Aggarwal was given an opportunity of personal hearing before the DC on the designated date and time. Despite notice issued he again neither preferred any postponement nor appeared for DC hearing convened on 02.02.2024.
- 1.7. The DC has considered the SCN, the reply to SCN, submissions of Mr. Vineet Aggarwal, other material available on record and proceeds to dispose of the SCN.

2. Alleged Contraventions, Submissions, Analysis and Findings

The contravention alleged in the SCN and Mr. Vineet Aggarwal's written submissions are summarized and detailed in succeeding paras.

2.1 Contravention

2.1.1 Non- cooperation with IA.

- 2.1.1.1 A notice of investigation was served to Mr. Vineet Aggarwal by the IA asking his reply along with supporting documents in the matter of CD-1 on 27.09.2023. On his failure to respond to the said notice, a reminder was sent *vide* email dated 13.10.2023 requesting him to submit his response. However, Mr. Vineet Aggarwal again failed to submit his reply to IA's notice of investigation.
- 2.1.1.2 A separate notice of investigation was served to Mr. Vineet Aggarwal by the IA asking his reply along with supporting documents in the matter of CD-2 on 09.11.2023. On his failure to respond to the said notice, a reminder was sent *vide* email dated 28.11.2023 requesting him to submit his response. However, he has failed to timely submit his reply to the said notice and reminder due to which IA was constrained to submit investigation report without taking into consideration his reply which was received belatedly.
- 2.1.1.3 It is, thus, evident that he has failed to extend sufficient and necessary co-operation to the IA, as may be required to carry out the investigation. The Board held the *prima facie* view that Mr. Vineet Aggarwal has contravened section 208(2)(a) and (e) of Code, regulation 8(4) and 8(8)

the Investigation Regulations, regulation 7(2)(a) and 7(2)(h) of IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations) and clauses 18 and 19 of the Code of Conduct under First Schedule to IP Regulations (Code of Conduct).

2.1.2 Submissions of Mr. Vineet Aggarwal.

2.1.2.1 In respect of CD-I, Mr. Vineet Aggarwal submitted that since, his registration was suspended, he was waiting for his replacement. The fact is that there is nothing to be liquidated nor there are any proceeds to be received or distributed but since there were two to three applications pending before AA and that is why dissolution application was not filed. Moreover, technically he cannot file any further applications and cannot continue as liquidator in the matter, thus, he did not appear in the case of CD-1 and is still waiting for his replacement and handing over the process. Further *vide* order dated 20.11.2023, the IBBI has already cancelled his registration as IP. After receipt of this show cause notice, he was seeking legal opinion regarding whether it is appropriate to file an application to apprise the Court of the current situation and to seek appropriate directions.

2.1.2.2 Mr. Vineet Aggarwal submitted that SCN dated 07.12.2023 has been issued on basis of report of IA without considering the facts of the case. It was submitted that his registration was suspended *vide* order dated 14.03.2023 for next two years by the DC of the IBBI and same was forwarded to the AA & the members of Committee of Creditors (CoC) in all the matters being dealt by him. Based on the previously mentioned order of suspension, AA has replaced him in three matters running before Delhi and Indore Bench of the AA.

2.1.2.3 Further in the matter of CD-2, in his communication he has mentioned that he already replied to the IA *vide* email dated 01.12.2023. It is further submitted that in the matter of CD-2 that Mr. Tanvir Shaikh has filed a complaint before IBBI that he has not received payments for his invoices raised during year 2012 and 2013. As understood from the complaint, Mr. Tanvir Shaikh was an operational creditor of the CD- 2, but he did nothing for realisation of his dues. All the invoices as mentioned in the complaint are barred by limitation and the complainant even does not have right to approach any court of law for realisation of his dues and further, for arm twisting, he has filed a complaint before IBBI. The IA without considering the email dated 01.12.2023 submitted its report on the basis of which show cause notice is issued. Further, complainant i.e., Mr. Tanvir Shaikh has neither filed any claim during CIRP nor liquidation, how can he become aggrieved against the liquidator and file a complaint to IBBI which was not even worth considering.

2.1.3 Findings and Analysis

2.1.3.1 In respect of CD-1, the investigation notice was sent on 27.09.2023 and reminder on 13.10.2023. Mr. Vineet Aggarwal did not provide any reply or response to such investigation notice and the IA submitted its report to the Board on 30.11.2023. Mr. Vineet Aggarwal did not provide any reply to the IA with respect to CD-1. However, in his response to SCN, Mr. Vineet Aggarwal has raised technical issues regarding his non appearance in front of AA. It may be noted that serious observations have been raised by the AA in respect of handling of the affairs of the CD-I by Mr. Vineet Aggarwal as liquidator. It is to be noted that majorly these observations relate

to the period before his suspension by the DC vide its order dated 14.03.2023. The order dated 25.08.2023 states :

“None appeared on behalf of the Liquidator when the matter was called for hearing. On the earlier two occasions also, there was no representation on behalf of the Liquidator. Liquidator is not appearing and he has not taken further steps consequent to the liquidation order dated 10.04.2019 for more than three years. Therefore, this case is pending for further progress. This attitude of the Liquidator is not prosecuting the matter shows his callousness and abject indifference. Therefore, we call upon the IBBI to take appropriate action against the Liquidator. List the matter on 16.10.2023. A copy of this order may also be sent to Chairman, IBBI.”

2.1.3.2 Mr. Vineet Aggarwal submitted that he was seeking legal opinion regarding filing of application before AA for informing current situation and seeking directions. However, it is expected that an IP shall immediately inform the AA and handover control of the CD as per directions of the AA rather than sitting over CD in garb of legal opinion.

2.1.3.3 With respect to CD-2, the IA sent notice on 09.11.2023 and reminder on 28.11.2023. Since no reply was received till then, the IA submitted its investigation report to the Board on 30.11.2023. Mr. Vineet Aggarwal provided his reply with respect to CD-2 on 01.12.2023, i.e. after submission of the investigation report by IA. Therefore, his contention that his response was not duly considered is not tenable. Further, the report of the IA solely focuses on the issue of non-cooperation of the professional and has not alleged any contravention on the issue of claim collation. The IA has alleged contravention with regard to non-cooperation only and relevant portions on the basis of which SCN was issued reads as under:

“5. As per Insolvency and Bankruptcy Board of India (Inspection & Investigation Regulations), 2017 regulation 8(4) provides:

(4) It shall be the duty of the service provider and an associated person to produce before the Investigating Authority such records in his custody or control and furnish to the Investigating Authority such statements and information relating to its activities within such time as the Investigating Authority may require.

Further as per Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 Code of Conduct made under regulation 7(2)(h), Clause 18 and 19 provides:
18. An insolvency professional must appear, co-operate and be available for inspections and investigations carried out by the Board, any person authorised by the Board or the insolvency professional agency with which he is enrolled.

19. An insolvency professional must provide all information and records as may be required by the Board or the insolvency professional agency with which he is enrolled.

6. Considering the above, IP prima facie has contravened Section 208 (a), (e) of Code which required IP to take reasonable care and diligence while performing his duties, regulation 8 of Inspection and Investigation regulations, regulation 7(2)(h) of IP Regulations and clause 18,19 of Code of Conduct under IP Regulations.”

2.1.3.4 The DC notes that Mr. Vineet Aggarwal was required to provide his response before IA. The reply to SCN as received from him, however, does not address his reasons for continued non-responsive behaviour towards the IA. If the IP does not cooperate with the Board, it will be difficult for the Board to carry its work of regulation and monitoring the professionals and process as required under the Code.

3 Order

- 3.1 The Code envisages completion of insolvency processes in a timebound manner. The role of professional as IRP, RP and Liquidator is of vital importance in meeting this objective. Continued non-cooperation with the Board and AA does not augur well professional conduct. He has been indicted before also on similar grounds. *Vide* order no. IBBI/DC/155/2023 dated 14.03.2023 on contraventions related to (i) non-Cooperation to the Inspecting and the Investigating Authority in conduct of inspection and investigation and (ii) non-disclosure of related party status of Professional engaged and appointment of related party to CD as professional in CD-2, the DC, in exercise of the powers suspended the registration of Mr. Vineet Aggarwal for a period of two years.
- 3.2 Further, order No. IBBI/DC/195/2023 dated 20.11.2023 on grounds of contraventions related to (i) Non-cooperation with IA, (ii) non-appearance before the AA, (iii) non-conduct of the CIRP proceedings, (iii) non-cooperation in handing over assets to new RP etc, the registration of Mr. Vineet Aggarwal was cancelled.
- 3.3 In the instant DC proceedings too, contravention related to non-cooperation is established beyond doubt. In view of this, keeping into consideration of contravention as highlighted in the SCN, reply to the SCN provided by Mr. Vineet Aggarwal and the other materials made available to the DC, the DC finds Mr. Vineet Aggarwal has contravened section 208(2)(a) and (e) of Code, regulation 8(4) and 8(8) the Investigation Regulations, regulation 7(2)(a) and 7(2)(h) of IP Regulations and clauses 18 and 19 of the Code of Conduct.
- 3.4 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 hereby imposes penalty of Rs.50,000/- (Rupees fifty thousand only) and directs Mr. Vineet Aggarwal to deposit the penalty amount directly to the Consolidated Fund of India (CFI) under the head of “penalty imposed by IBBI” on <https://bharatkosh.gov.in> within 45 days from the date of issue of this order and submit a copy of the transaction receipt to the Insolvency and Bankruptcy Board of India.
- 3.5 Section 22 of the Chartered Accountants Act, 1949 enunciates that a Chartered Accountant is expected to maintain the highest standards and integrity even in his/her personal affairs and any deviation from these standards, would expose him/her to disciplinary action. As matter relates to continued professional misconduct and Mr. Vineet Aggarwal being a Chartered Accountant, DC hereby directs the Board to forward this order along with the op-cited orders dated 14.03.2023 and 20.11.2023 DC orders to the Institute of Chartered Accountants of India (ICAI) for any future course of action as may be deemed appropriate.
- 3.6 This Order shall come into force immediately in view of the para 3.4 of the order.

- 3.7 A copy of this order shall be sent to the CoC/Stake Holders Consultation Committee (SCC) of all the Corporate Debtors in which Mr. Vineet Aggarwal is providing her services, and the respective CoC/SCC, as the case may be, will decide about continuation of existing assignment of Mr. Vineet Aggarwal.
- 3.8 A copy of this order shall be forwarded to the Indian Institute of Insolvency Professionals of ICAI where Mr. Vineet Aggarwal is enrolled as a member.
- 3.9 A copy of this order shall also be forwarded to the Registrar of the Principal Bench and New Delhi of the National Company Law Tribunal for information.
- 3.10 Accordingly, the show cause notice is disposed of.

Sd/-
(Sandip Garg)
Whole-Time Member, IBBI

sd/-
(Sudhaker Shukla)
Whole-Time Member, IBBI

Date: 13 May 2024
Place: New Delhi