

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Authority specified by the Central Government under section 458 of the Companies Act, 2013)

20th August, 2020

ORDER

IN THE MATTER OF APPLICATION OF [REDACTED] FOR GRANT OF CERTIFICATE OF REGISTRATION AS A REGISTERED VALUER UNDER RULE 6 OF THE COMPANIES (REGISTERED VALUERS AND VALUATION) RULES, 2017.

[REDACTED] (applicant) had submitted an application under section 247 of the Companies Act, 2013 read with rule 6 (1) of the Companies (Registered Valuers and Valuation) Rules, 2017 (Rules) seeking a certificate of registration as a Registered Valuer (RV) in the asset class 'Securities or Financial Assets' (SFA). [REDACTED], where the applicant is enrolled as a valuer member, forwarded the application on December 14, 2018, with a recommendation for registration of the applicant as an RV.

2. As per Rule 4(c) r/w Annexure IV of the Rules, an individual must possess the following educational or professional qualification and subsequent experience to be eligible for registration as a valuer in the asset class of SFA: –

- a. Member of Institute of Chartered Accountants of India, Member of Institute of Company Secretaries of India, Member of the Institute of Cost Accountants of India, Master of Business Administration or Post Graduate Diploma in Business Management (specialisation in finance) and three years of work experience thereafter, or,
- b. Post Graduate in Finance from a University or Institute established, recognised or incorporated by law in India and three years of work experience in Finance discipline after post-graduation.

3. While considering the aforesaid application it was observed that the applicant possesses a Post Graduate Diploma in Financial Analysis from the Institute of Chartered Financial Analysts of India in the year 2003. The applicant failed to establish that the said institute was either established, recognised or incorporated by law in India at the time when the degree was awarded to him. He also failed to satisfy the requirement of being a member of any of the professional institutes as prescribed under rule 4(c) r/w Annexure IV of the Rules. In view of the same, the Authority formed a *prima facie* opinion that the registration ought not to be granted to the applicant. The *prima facie* opinion, along with the reason for the same, was communicated to the applicant vide mail dated 25th April 2019 and was provided an opportunity to explain, within 15 days of the receipt of the communication, as to why his application for registration as valuer should be accepted by the Authority. However, the applicant failed to submit his response on the *prima facie* opinion.

4. The Authority offered an opportunity to seek personal e-hearing in the matter. The applicant availed the opportunity of personal e-hearing scheduled on 22nd July 2020. During the personal e-hearing, the applicant requested for further time to submit his written explanation which was granted. The applicant submitted his written explanation to [REDACTED] which was forwarded to the Authority vide email dated 28th July 2020 wherein he submitted that Rule 4(a) is inclusive and open ended in terms of qualification. The specific nomenclature of qualifications mentioned in

the Indicative Matrix is for indicative purpose only and the same should not be treated as limiting condition or as if education with these qualifications are the only degrees desired. The applicant also placed reliance on the Judgment of Hon'ble Supreme Court in the matter of ICAI & Others Vs ICAI (judgment dated 16-05-2007).

5. In this background, after considering the oral and written submissions made by the applicant and material available on record, it is observed that the above-referred judgment passed by Hon'ble Supreme Court of India which was relied upon by the applicant, deals with the issues which is extraneous to our consideration in the present matter. It neither decides on the issue that whether Institute of Chartered Financial Analysts of India is recognised by law in India nor did it held that such educational qualification is equivalent to any professional and technical degree as recognised by the Ministry of Human Resources and Development so as to comply with Explanation III to Rule 4. Further, it should be noted that the valuation of every asset class requires different and specific skill set. Therefore, Rules provide specific educational and professional qualifications unique to each asset class. The contention of the applicant that the professional and educational qualifications prescribed under Rule 4(a) r/w Annexure IV of the Rules is excessive restriction is totally misconceived. Every profession has its own entry norms in terms of educational qualifications to ensure that the professional possesses adequate skill sets to render quality professional services which can be relied on. Therefore, the claim of the applicant to accept educational or professional qualifications beyond those mentioned in the Rules is untenable.

6. The Rules in terms of educational and professional qualification as prescribed under Rule 4 is unambiguous. This is a settled position that when the degree was obtained by the applicant, the University or Institute (from which degree was obtained), should have been established, recognised or incorporated by law in India at such time. In the instant matter, the applicant failed to establish that the Institute from where he obtained a Post Graduate diploma in Financial Analysis is established, recognised or incorporated by law in India at the time when the same was awarded to him. Thus, the educational qualifications possessed by the applicant cannot be said to be in compliance with Rule 4 read with Annexure IV of the Rules.

7. In view of the foregoing, it is observed that the applicant does not comply with the educational qualification prescribed under the Rules for registration as RV. In exercise of the powers conferred on the Authority under rule 6 (9) (b) of the Companies (Registered Valuers and Valuation) Rules, 2017, I, therefore, reject the application of [REDACTED] for registration as RV in the asset class SFA.

Date: 20th August, 2020
New Delhi

Sd/-
(Dr. Navrang Saini)
Whole Time Member
Insolvency and Bankruptcy Board of India