

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
DISCIPLINARY COMMITTEE

7TH FLOOR, MAYUR BHAWAN, NEW DELHI

DATED, THE 15TH NOVEMBER 2017

IN THE MATTER OF ALLEATO ADVISORY SERVICES PRIVATE LIMITED

**Disciplinary Committee Order No. IBBI/ Disc. Com./2017/1 (F. No.
IBBI/IP/DC/2017/29/1)**

**Reference: Order dated 29th June 2017 in the matter relating to IP registration of
Mr. Rajkumar Vinod Vachher**

Order

The Insolvency and Bankruptcy Board of India (IBBI), while exercising powers under regulation 8(3)(b) of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016, rejected the application of Mr. Rajkumar Vinod Vachher for registration as an Insolvency Professional by an order dated 29th June, 2017 on the ground that he did not possess required experience under regulation 5(b) of the said regulations and observed that the Alleato Advisory Services Pvt. Ltd. (hereinafter referred to as the said company) has misrepresented on its website that it has been promoted by qualified Insolvency Professionals with accreditation from Insolvency and Bankruptcy Board of India, and advised the Board to take appropriate action permissible under the Code against Alleato, its Board of Directors and its core team members. In the context of the said order, the matter was referred to the Disciplinary Committee.

2. The Disciplinary Committee (the Committee) on examination of the facts on record noticed that: -

- (i) Mr. Rajkumar Vinod Vachher, who is the executive director of the said company, applied to IBBI for registration as an Insolvency Professional on 26th March 2017 through Insolvency Professional Agency of the Institute of Cost Accountants of India with which he was enrolled as its member since 24th March 2017.
- (ii) Mr. Rajkumar Vinod Vachher was associated with Alleato Advisory Services Pvt. Ltd, Gurgaon in various capacities, viz., Director from 15.05 2010 to

1.08.2010, Executive Director from 2.08.2010 to 10.04 2011 and from 8.04.2012 to March 2017. He was a student of PGDM from 11.04. 2011 to 07.04.2012.

(iii) During scrutiny of testimonials pertaining to his experience which were from the said company, officers of IBBI handling registration visited website of the said company on 19th May, 2017 which revealed that the website hosted certain misleading statements, viz., “We are promoted by qualified Insolvency Professionals with accreditation from Insolvency and Bankruptcy Board of India” and “Empanelled with top financial institutions of India for recovery and insolvency related matters”.

(iv) His application was rejected vide order of the Whole Time Member of IBBI dated 29th June 2017 as the applicant Mr. Vachher did not possess the required experience for the purpose of registration as an insolvency professional.

(v) In the said order it was, *inter-alia*, observed that the said company has misrepresented on its website that “we are promoted by qualified Insolvency Professionals with accreditation from Insolvency and Bankruptcy Board of India”, and advised the Board to take appropriate action permissible under the Code against Alleato, its Board of Directors and its core team members in this regard.

(vi) Mr Raj Vachher vide his email dated 13.07.2017 made his detail submission whereby it was, *inter-alia*, stated that website of the said company was undergoing a change and there is a change of vendor managing website and rebuilding its content and for misrepresentation, he tendered apology personally and on behalf of the board of the said company for oversight and erroneous statement. It was further stated that “We have not made any commercial gains or led to any loss to anybody as a result of this erroneous statement on the website of Alleato”.

3. In view of the observation made in the said order regarding misrepresentation and submissions made by Mr. Vachher in respect of such misrepresentation, the matter was referred to the Disciplinary Committee of the Board for further action.

4. In this referred matter the Disciplinary Committee, after examination of the facts and documents on records, noted that the profession of insolvency professionals is of recent origin unlike other professions such as medical and legal. Hence, vendor managing the website cannot make such erroneous statement on his own unless instructed to do so by the said Company or its directors. Therefore, submissions made by Mr Vachher in his mail dated 13.7.2017 appear to be not repudiating the fact of misrepresentation.

5. In the aforesaid backdrop, the Committee decided in terms of sub-regulation (1) of regulation 13 of the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017 to provide an opportunity to explain the said misrepresentation or misleading statements on the website. Accordingly, notices dated 15.09.2017 were served to Alleato Advisory Services Private Limited and each of its three directors Mr. Shailesh Baunthiyal (DIN- 02868760), Mr. Rajkumar Vinod Vachher (DIN- 03162591) and Mr. Amit Bhatnagar (DIN 05309503), to explain the said misrepresentation or misleading statements on the website.
6. The response to the said notices was received by the Board via email dated 23rd September, 2017 sent by Mr. Rajkumar Vachher, Director, Alleato Advisory Services Private Limited on behalf of all the directors, and not by every director individually.
7. In the said response to the misrepresentation on its website that it has been promoted by qualified Insolvency Professionals with accreditation from Insolvency and Bankruptcy Board of India, Mr. Rajkumar Vachher have stated as follows:
 - (a) That the website of Alleato i.e. 'www.alleato.co.in' is undergoing a change of hosting server, change of vendor managing the website and is also being rebuilt completely to meet the business needs. The process started in the month April 2017 and the website is still not live.
 - (b) That the new vendor building and managing the website had been from time to time uploading versions with changes/upgrades in order to test functionality and design. The vendor has explained that they uploaded versions of the build in order to test the website and were doing so on the server for the following two reasons:
 - (i) It is the easiest way of sharing build versions between professionals working on user experience and user interface.
 - (ii) The vendor was aware of the fact that the website has never been promoted and there have hardly been any visitors in its existence of past many years. This is to the extent that none of platforms tracking the number of visitors to a particular website have any data pertaining to 'www.alleato.co.in'. Hence the chance of anyone visiting and coming across the website or the contents of the site was considered negligible. Thereby the vendor took the liberty of posting content on internet during the build stage itself and without any prior consent from the person at Alleato who is in-charge of the website project.

- (c) That the new version of the website was to come in public domain only ‘after the successful registration with IBBI as an Insolvency Professional’. The vendor while building versions, owing to his lack of awareness of the process of becoming an IP and the impact of his actions, posted content on internet before it was approved to be released in the public domain. As stated earlier, he took the liberty as he knew that the domain does not get any visitors.
- (d) That the incorrect content was removed on 30.06.2017 from the website immediately after its existence was brought to our notice by the Insolvency and Bankruptcy Board of India.
- (e) That during the rebuilding stage there was no intent of making any of the website content public. Since IBBI was processing application for registration it has come across the website. Otherwise for most of previous few months the website has not been operational and the same is being shown on the landing page also.
- (f) That the two of the Alleato’s members had successfully cleared the Limited Insolvency Examination in the months of January 2017 and March 2017 respectively. As a result, we are well versed with the covenants of the Insolvency Code, regulations and the code of conduct. We are committed to and would take pains to ensure that we abide by the guidelines in totality and are not found wanting in any way while discharging our obligations.
- (g) That the code is very detailed and robust; it is designed to ensure that bona-fide, technically & practically qualified individuals and professionals with highest integrity practice as insolvency professionals.
- (h) That under the system of the Act it is impossible for any individual to pose as an Insolvency professional and take up any kind of assignment of undertaking insolvency resolution process without being registered with the board.
- (i) That for the record he confirmed that we, as individuals or as a company, have not approached any financial institution for getting any kind of assignment as insolvency professionals. We have shared with some of our associates that we have cleared the Limited Insolvency Examination and have categorically informed that we are awaiting my registration process to get completed.
- (j) That we have not made any commercial gains or led to any loss to anybody as a result of this erroneous statement on the website of Alleato.
- (k) That we humbly state that the erroneous posting on the internet is an inadvertent act on the part of our service provider who is working on the website of Alleato.

They have been duly sensitized about the matter, by myself personally, and have been forbidden from uploading any content on the website without taking prior consent from us (Alleato).

8. As the reply of said notices has come from only one Director of the said company on behalf of all the three directors, and not by every director individually. Hence, prior to taking any action or decision in the said matter, an opportunity of hearing in person was provided to all the three directors of the Alleato Advisory Services Private Limited individually, and the matter was posted for hearing on 16.10.2017.
9. On 16.10.2017, only two directors were present in person before the Committee, namely, Mr. Rajkumar Vinod Vachher and Mr. Amit Bhatnagar. Mr. Rajkumar Vinod Vachher has asserted-
 - (a) that the Alleato Advisory Services Private Limited is working since 21.12.2009 (date of registration and incorporation) and its clientele largely covered to SMEs and Capital Advisory Services and it is a very small set-up having paid up capital of one lakh rupees. The firm was also associated with SIDBI in past.
 - (b) The website was being handled by vendor Mr. Atul Gupta (9899902424) and the erroneous statement posted on website was removed on 30.06.2017.
 - (c) The vendor while building versions, owing to his lack of awareness of the process of becoming an IP and the impact of his actions, posted content on internet before it was approved to be released in the public domain.
 - (d) The website of the said company was not visited by public.
 - (e) We have not made any commercial gains or led to any loss to anybody as a result of this erroneous statement on the website of Alleato.
10. Mr. Amit Bhatnagar who was present in person on 16.10.2017 before the Committee also stated similarly.
11. All the three directors of Alleato Advisory Services Private Limited were given seven days' time to submit their statement on affidavit to the Disciplinary Committee, Insolvency and Bankruptcy Board of India. The Disciplinary Committee, on 20.10.2017, has taken on record the affidavit filed by all the three directors of the Alleato Advisory Services Private Limited, Mr. Rajkumar Vinod Vachher, Mr. Amit Bhatnagar and Mr. Shailesh Baunthiyal.
12. It is noticed that the statements made in the affidavits submitted by Mr. Vachher and Mr. Bhatnagar are similar to the detailed submission made by Mr. Vachher in his email submission dated 13th July, 2017. However, the third director Mr. Shailesh Baunthiyal

stated in his affidavit that he was not actively involved in the day to day affairs of the said company since July, 2014 and he was not aware about the events that took place around re-building of the website and subsequent posting of the incorrect information but regarding this matter of misrepresentation, the other two directors have communicated him the facts about such information on the website of the said company.

13. The Disciplinary Committee after considering the material on record, statements made by two directors during personal hearing and statement submitted by all the three directors of the said Company on affidavit, finds as follows:

- (a) Section 206 of the Insolvency and Bankruptcy Code, 2016 provides that no person shall render his services as insolvency professional under this Code without being enrolled as a member of an insolvency professional agency and registered with the Board.
- (b) The Insolvency and Bankruptcy Board of India registers the Insolvency Professionals but never gives accreditations/solicitation of any kind and the registered Insolvency Professionals are to observe the Code and regulations made thereunder in their course of conduct.
- (c) The profession of insolvency professionals is of recent origin unlike other professions such as medical and legal. Hence, vendor of the said Company managing the website cannot make such erroneous or misleading statement on his own unless instructed to do so by the said Company and its directors.
- (d) That the website is being handled by a person not very well versed with Insolvency and Bankruptcy Code, 2016 but creates and posts a matter which says that “We have been promoted by qualified Insolvency Professionals with accreditation from Insolvency and Bankruptcy Board of India”. Thus, without instructions being issued by said Company to posts so, it cannot be posted by the vendor handling the website.
- (e) In absence of registration of any of the directors of the said company as an insolvency professional and the IBBI not being accrediting agency, the aforesaid statement on the website is obviously misleading and *prima facie* misrepresentation.
- (f) The fact of misleading statement on the website of the said Company came to knowledge of the Board only on 19.05.2017 and it was removed on 30.06.2017 by the said Company only after the objections of the Board for the said content.

14. In view of the above and in absence of registration of any of the directors of the said company as an insolvency professional and the IBBI not being accrediting agency, the posting by the said company on its website “We are promoted by qualified Insolvency Professionals with accreditation from Insolvency and Bankruptcy Board of India” *prima facie* appears to be misrepresentation by the Alleato Advisory Services Private Limited. Therefore, the said matter of misrepresentation on the website of the said company may be reported by the Board as a complaint to the Ministry of Corporate Affairs against the Alleato Advisory Services Private Limited and its directors for such misrepresentation.

Accordingly, the referred matter is disposed of.

Sd/-

(Dr. Mukulita Vijayawargiya)

Whole Time Member and Disciplinary Committee

Copy to: -

1. ALLEATO ADVISORY SERVICES PRIVATE LIMITED
CIN: U74900DL2009PTC197260
Registered Address: 25/14 1st FLOOR EAST PATEL NAGAR,
NEW DELHI- 110008
2. RAJ KUMAR VINOD VACHHER
DIN/PAN- 03162591
Registered Address: 25/14 1st FLOOR EAST PATEL NAGAR,
NEW DELHI- 110008
3. AMIT BHATNAGAR
DIN/PAN- 05309503
Registered Address: 25/14 1st FLOOR EAST PATEL NAGAR,
NEW DELHI- 110008
4. MR. SHAILESH BAUNTHIYAL
DIN/PAN- 02868760
Registered Address: 25/14 1ST FLOOR EAST PATEL NAGAR,
NEW DELHI- 110008
5. DR. NAVRANG SAINI
WHOLE TIME DIRECTOR
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
7TH FLOOR, MAYUR BHAVAN, NEW DELHI-10001
6. MS. MAMTA SURI
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