

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Disciplinary Committee)

No. IBBI/DC/236/2024

5th August, 2024

ORDER

This Order disposes of the Show Cause Notice (SCN) No. IBBI/C/2023/00935/849/147 dated 05.04.2024, issued to Mr. Krishna Mohan Gollamudi (hereinafter also referred as “IP”) who is a Professional Member of the Insolvency Professional Agency of Institute of Cost Accountants of India and an Insolvency Professional registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with Registration No. IBBI/IPA-003/IP-N00161/2018-2019/11952.

1 Background

- 1.1 The Hon’ble National Company Law Tribunal, Hyderabad Bench (AA) vide its Order dated 09.04.2019, admitted the application under Section 7 of the Code, filed by the financial creditor viz. Andhra Bank for corporate insolvency resolution process (CIRP) of M/s. Leo Meridian Infrastructure Projects and Hotels Ltd. (Corporate Debtor / CD) and appointed Mr. Naga Bhushan Bhagawati as the Interim Resolution Professional. Later, Mr. Krishna Mohan Gollamudi was appointed as Resolution Professional (RP) by the AA *vide* Order dated 17.10.2022.
- 1.2 Challenging the appropriateness of handling the affairs of the CD a complaint was received by the Board. In disposal of the same, Insolvency and Bankruptcy Board of India (IBBI), in exercise of its powers under Section 218 of the Code, read with regulations 7(1) and 7(2) of Insolvency and Bankruptcy Board of India (Inspection and Investigation), Regulations, 2017 (Inspection and Investigation Regulations), appointed an Investigating Authority (IA) to conduct investigation of Mr. Krishna Mohan Gollamudi in respect of CIRP of the CD. The IA served the notice of investigation to Mr. Krishna Mohan Gollamudi on 10.07.2023, on which he replied *vide* his email dated 31.07.2023.
- 1.3 Based on the findings of the investigation as mentioned in the Investigation Report submitted by the IA, the IBBI formed a prima facie opinion and issued SCN to Mr. Krishna Mohan Gollamudi vide letter dated 05.04.2024. The SCN alleged contraventions of provisions of the Code and the IBBI (Insolvency Professionals)

Regulations, 2016 (IP Regulations). The reply of the IP on the SCN was received by the Board on 25.04.2024.

- 1.4 The SCN, response of the IP to the SCN and other materials available on record were referred to the Disciplinary Committee (DC) for disposal of the SCN. The IP availed an opportunity of personal hearing before the DC on 21.06.2024 where he along with his advocate Dr. Ashish Makhija were present.

2. Issue of maintainability of Disciplinary Committee proceedings

- 2.1 Mr. Krishna Mohan Gollamudi in his reply to the SCN has raised certain preliminary objections related to the maintainability of the SCN issued to him as follows:

- a) the prima facie opinion formed by the Board before issuance of SCN as mandated under regulation 11 of the Inspection and Investigation Regulations was not shared with the IP, and
- b) the SCN was issued on the basis of a complaint received by the Board, which was filed beyond the prescribed time limit. In the present case, the purported cause of action occurred in 2020 and the complaint is now filed in 2023 which is after a considerable delay.

- 2.2 The DC has examined the grounds raised by Mr. Krishna Mohan Gollamudi on the issue of non-maintainability of the SCN and observed as follows:

- a) Chapter-III of Inspection and Investigation Regulations provides the procedure for conduct of investigation and Regulation 10 of the said Regulation provides that IA shall submit the investigation report to the Board. Further, on consideration of the investigation report of the investigating authority, if any prima facie view is formed that there is contravention on the part of IP, then the SCN is issued by the Board which contains the copy of the investigation report and time is granted to IP to provide his explanation on the allegations mentioned in the investigation report before the order is passed by Disciplinary Committee. In accordance with regulation 11(2) of the Inspection and Investigation Regulations, the prima facie opinion formed by the Board, after considering the investigation report, was communicated to Mr. Krishna Mohan Gollamudi in the form of show cause notice dated 05.04.2024.
- b) In terms of section 218 of the Code read with Inspection and Investigation

Regulations, the Board is empowered to take into account any material made available to it, regarding any alleged misconduct by the service provider. It should be noted that the Board constituted under section 188 of the Insolvency and Bankruptcy Code, 2016 is entrusted with the duty to ensure effective implementation of the provisions and objectives of the Code. section 196 of the Code bestows various powers and functions on the Board, including that of suspension or cancellation of registration granted to service providers, regulation of working of service providers, carry out inspection and investigation on service providers and pass such orders as may be required for compliance of provisions of the Code and regulations, monitoring of performance of service providers, etc. The conduct of an Insolvency Professional in a CIRP has wide implications and affects the rights and interests of all the stakeholders. Therefore, to effectively discharge its statutorily mandated duties and functions, under the Code, the Board can very well examine the conduct of the IP whenever any information about the conduct related issue is received by the Board.

3. Alleged Contraventions, Submissions of IP and Findings

The contravention alleged in the SCN, submissions by the IP and findings of the DC are summarized as follows:

Misappropriation of CD's resources:

- 3.1. It was observed that during the CIRP, CD's property was booked for marriage of son of Mr. Krishna Mohan Gollamudi with the daughter of Mr. P. Ramalingaeswar Rao, the marriage being scheduled on 25.01.2023. Mr. Krishna Mohan Gollamudi submitted that booking was done by Mr. P. Ramalingaeswar Rao (bride's father) independently for 20 rooms @ Rs.6500/- per night. However, the hall provided for the said event was not charged at all. As per Bill No. B2223-0000038055 dated 04.02.2023, rooms were charged Nil in the name of Mr. Sarathchandra and Ms. P Satyapriyanka .
- 3.2. Further, other services i.e. AV system services and F&B services were provided by the third parties. As per the reply of Mr. Krishna Mohan Gollamudi, the said services were rendered by outside vendors and were paid by Mr. P. Ramalingeswar Rao, in cash. However, no documents in support of payments made to the outside vendors has been produced.

- 3.3. On the basis of above facts, it has been observed that Mr. Krishna Mohan Gollamudi used the CD's assets for personal use i.e. for the marriage ceremony in his family which is evident from non-charging of hall for the said function and providing a room from 03.02.2023 – 04.02.2023 with no billing. Mr. Krishna Mohan Gollamudi also failed to provide supporting documents for payments to the services which were obtained from third party vendors.
- 3.4. In view of the above, the Board was of the prima facie view that Mr. Krishna Mohan Gollamudi has contravened 208(2)(a) of the Code, Regulation 7(2)(h) of the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations) read with Clauses 2, 3, 5, 9 and 14 of the Code of Conduct as specified in the First Schedule of IP Regulations (Code of Conduct).

Submissions by Mr. Krishna Mohan Gollamudi

- 3.4.1. Mr. Krishna Mohan Gollamudi submitted that for the said event of marriage, the venue was secured by Mr. P. Ramalingeshwar Rao acting independently and without consultation with him. Mr. Krishna Mohan Gollamudi further submitted that he played no role in the reservation of the venue, and it is customary within his community, specifically in his cultural practice, that matrimonial festivities are hosted at the bride's residence, with the bride's family bearing the preponderance of associated costs.
- 3.4.2. Mr. Krishna Mohan Gollamudi submitted that Mr. P. Ramalingeshwar Rao had independently negotiated a comprehensive package deal for the wedding ceremony on 08.11.2022, which included charges for 20 rooms and 2 halls at a total cost of Rs. 2 Lakhs. Mr. Krishna Mohan Gollamudi further highlighted that consistent with past customary practice of the CD and prevalent hotel industry norms, halls are not typically charged separately for major events involving substantial bookings, such as engagement ceremonies, weddings or corporate gatherings. To support his contention, Mr. Krishna Mohan Gollamudi placed reliance on the Internal Audit report of April, 2023 documenting instances where no charges are levied for the use of hall as a part of strategic packaging.
- 3.4.3. Mr. Krishna Mohan Gollamudi submitted that Mr. P. Ramalingeshwar Rao was issued an order booking receipt by the Sales Team, which detailed the reservation of 20 rooms and 2 halls, without any separate charges for the use of the halls, apart from electricity

fees amounting to Rs. 45,000. Subsequently, Mr. P. Ramalingeswar Rao remitted an advance payment of Rs. 1 lakh to secure the booking for the scheduled date. Following the conclusion of the event, the corporate debtor invoiced a total amount of Rs. 2,20,000/- which encompassed charges for the halls and 20 rooms in accordance with the pre-agreed terms, as well as for an additional 3 rooms used by the bride's family. Mr. Krishna Mohan Gollamudi submitted that the accounts department issued the invoice solely for the rooms, likely for accounting purposes, given that the initial booking of the halls and 20 rooms was part of an inclusive package as previously mentioned.

- 3.4.4. Mr. Krishna Mohan Gollamudi submitted that invoice no. B2223-0000038055 dated 04.02.2023, showed a zero amount in the names of Mr. Sarathchandra and Ms. P. Satyapriyanka, however, he clarified that he has no involvement in the CD's billing operations, and the matter was brought to Mr. Krishna Mohan Gollamudi's attention only upon receiving the complaint. Mr. Krishna Mohan Gollamudi further submitted that, upon learning about the aforementioned invoice, he had inquired with the relevant department about the omission of billing on invoice no. B2223-0000038055. The department explained that since the marriage ceremony took place at the resort, it is customary business practice to offer a one-day complimentary stay for the bride and groom.
- 3.4.5. Mr. Krishna Mohan Gollamudi submitted that the AV & Sound equipment and catering services were not provided by the Resort, and the Mr. Krishna Mohan Gollamudi did not use any Resort services as alleged in the complaint. The aforementioned services were provided by external vendors, engaged and paid for by the bride's family i.e., Mr. Ramalingeswar Rao. This is corroborated by the "Function of the Day" (FoD) report submitted, which explicitly indicates outdoor catering (ODC) for dinner on 25.01.2023, and for breakfast and lunch on 26.01.2023. The external nature of these services is evidenced by the security register maintained at the entry gate, where it is recorded that vehicle no. AP23 W7113, carrying sound system equipment and other instruments, entered the venue at 18:00 hours on 25.01.2023. Similarly, the security register also notes that the outside caterer brought gas cylinders, chulha, and bhatti (totaling 18 items) at 14:12 hours on 25.01.2023, in vehicle no. TS10UA9710. Furthermore, food was delivered by a person named Janardhan in a van with numbers TS 11UA 8717 and

- 3.4.6. Mr. Krishna Mohan Gollamudi further submitted that, the tax invoices indicate that the room plans were on the European Plan (EP), which means only the accommodation is covered in the rates, confirming that the Resort did not supply food services.
- 3.4.7. Mr. Krishna Mohan Gollamudi further submitted that for the payments to the service provider, the payments were made by Mr. Ramalingeswar Rao and his family members in cash, and it is customary not to request receipts for cash payments, particularly during wedding ceremonies. Mr. Krishna Mohan Gollamudi submitted that he had no prior indication or knowledge that cash receipts would be required in the future, otherwise, the Mr. Krishna Mohan Gollamudi could have advised Mr. Ramalingeswar Rao to use an alternative payment method to maintain proper records.

Analysis and Findings of the DC

- 3.4.8. The allegations against Mr. Krishna Mohan Gollamudi center on the potential misuse of the CD's assets for personal purposes during a matrimonial event. The issue involved raises concerns about the lack of transparency in use of the CD's assets. The supplementary documents submitted apparently point towards no glaring deviation from the policy related to hiring of the resort premises. With bookings of rooms, facilities of halls being extended free charge is a practice which has been followed in other cases too. Nevertheless, as hiring of the premises for the marriage of Mr. Krishna Mohan Gollamudi's son, he was required to be extra vigilant about any complementary services extended for the event.
- 3.4.9. The DC notes the submission of Mr. Krishna Mohan Gollamudi that the booking and arrangements for the event were made independently by Mr. Ramalingeswar Rao as bride's father without his knowledge. Whatsoever, cultural practices as quoted, help only at the margin, as groom's side can't be presumed to be kept in dark about the premises where the marriage is to be solemnized.
- 3.4.10. There is lack of evidence suggesting any mal-fide intention on part of Mr. Krishna Mohan Gollamudi. However, staff clearly erred in extending the facility of complementary room for the bride and groom beyond the booking dates and this has been defended by Mr. Krishna Mohan Gollamudi stating some cultural practice.

However, fact remains that cultural practices cannot be used as shield in taking untenable commercial decision. Therefore, DC upholds the contravention on this count.

4. ORDER

- 4.1. An Insolvency Professional, acting as Interim Resolution Professional or Resolution Professional is entrusted with the duty of carrying out the provisions of the Code with the objective of achieving the purposes of the Code inter alia being balancing the interests of all stakeholders. Particularly, in cases where commercial facilities are being used by the related party of the professional, he has a duty to maintain the sanctity and transparency of the processes by adhering to the provisions of the Code and regulations framed thereunder in letter and spirit.
- 4.2. 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 and Regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016 hereby brings on record that **Mr. Krishna Mohan Gollamudi** (Registration No. IBBI/IPA-003/IP-N00161/2018-2019/11952), needed to be extremely careful and diligent in performance of his duties under the Code. The DC leaving such mistake with word of caution alone will not act as deterrent, therefore, DC imposes a penalty of Rupees one lakh (Rs. 1,00,000/-) on Mr. Krishna Mohan Gollamudi and directs him 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 IBBI.
- 4.3. In view of the Order made in para 4.2 above, this Order shall come into force immediately.
- 4.4. A copy of this order shall be forwarded to the Insolvency Professional Agency of Institute of Cost Accountants of India where Mr. Krishna Mohan Gollamudi is enrolled as a member.
- 4.5. A copy of this order shall be sent to the CoC/Stakeholders Consultation Committee (SCC) of all the Corporate Debtors in which Mr. Krishna Mohan Gollamudi is providing his services, if any, and the respective CoC/SCC shall decide on continuation of his services in the respective CD.

- 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.
- 4.7. Accordingly, the show cause notice is disposed of.

Sd/-

(Sudhaker Shukla)

Whole Time Member, IBBI

Dated: 5th August, 2024

Place: New Delhi