

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Disciplinary Committee)

No. IBBI/DC/195/2023

20th November 2023

ORDER

This Order disposes the Show Cause Notice (SCN) No. COMP-11011/46/2022-IBBI dated 08.05.2023 and COMP-11012/72/2023-IBBI/773/856 dated 31.07.2023 issued to Mr. Vineet Aggarwal, Insolvency Professional under section 219 of the Insolvency and Bankruptcy Code, 2016 (Code) read with regulation 11 and 12 of the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017 (Investigation Regulations). Mr. Vineet Aggarwal is an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (Board/IBBI) with registration No. IBBI/IPA-001/IP-P00475/2017-2018/10818 and a Professional Member of Insolvency Professional Agency (IPA) of the Institute of Insolvency Professionals of ICAI (IIP-ICAI), having residential address registered with IBBI as Plot No. 2, Sampurnanand Nagar, Sigra, Varanasi, Uttar Pradesh - 221010.

1. Developments in relation to resolution/liquidation of the CDs.

- 1.1 Considering allegations on several counts in relation to non-cooperation by Mr. Vineet Aggarwal in respect of two corporate debtors namely, (i) M/s JSM Devcons India Private Limited (CD-1) and (ii) M/s Nu Tek India Limited (CD-2), this order disposes of both the SCNs issued to him.
- 1.2 The National Company Law Tribunal, Ahmedabad, (AA) had admitted the application under section 7 of the Code for Corporate Insolvency Resolution Process (CIRP) of M/s JSM Devcons India Private Limited *vide* order dated 12.04.2019 and Mr. Vineet Aggarwal was appointed as Interim Resolution Professional (IRP) by the same order and was later confirmed as Resolution Professional (RP) on 21.11.2019. Later, Mr. Vineet Aggarwal, *vide* order dated 06.07.2023, was replaced by AA *vide* order dated 06.07.2023 and Ms. Chhaya Gupta was appointed as RP.
- 1.3 The National Company Law Tribunal, Delhi (AA) had admitted the application under section 7 of the Code for CIRP of M/s Nu Tek India Limited *vide* order dated 23.08.2019 and Mr. Arun Jain was appointed as IRP, who was later replaced by the CoC in its first meeting and Mr. Vineet Aggarwal was appointed as RP and was confirmed by the AA *vide* its order dated 01.10.2019. The AA passed the order for liquidation of CD on 22.06.2020 and Mr. Vineet Aggarwal was appointed as liquidator *vide* the same order.

2. Issuance of Show Cause Notice (SCN) and hearing before Disciplinary Committee (DC)

- 2.1 The IBBI, in exercise of its powers under section 218 of the Code read with regulations 7(2) and 7(3) of Investigation Regulations, appointed Investigating Authority (IA-1, IA-2 and IA-

3) to conduct investigation of Mr. Vineet Aggarwal in the CIRP of CD-1 and CD-2. The notices of investigation were shared with the IP by IA-1 on 14.09.2022 and by IA-2 on 28.10.2022 in the matter of CD-1, and by IA-3 on 24.11.2022 in the matter of CD-2, however Mr. Vineet Aggarwal failed to reply to all the notices sent. Subsequently, the IAs submitted the Investigation Reports to the Board.

2.2 Further, the AA *vide* order dated 24.03.2023 observed non-appearance by Mr. Vineet Aggarwal after its direction and referred the matter to the Board for consideration. The IBBI, in exercise of its powers under section 218 of the Code read with regulations 7(2) and 7(3) of Investigation Regulations appointed Investigating Authority (IA-4) to conduct investigation of Mr. Vineet Aggarwal in the CIRP of CD-2. The notices of investigation were shared with the IP by IA-4 on 29.05.2023, however Mr. Vineet Aggarwal failed to reply to the notices sent and reminders thereon. Subsequently, the IA submitted the Investigation Reports to the Board.

2.3 The IBBI issued the SCN on 08.05.2023 to Mr. Vineet Aggarwal based on findings in the investigation report submitted by IR-1, IR-2 and IR-3 in CIRP of CD-1 and CIRP of CD-2 and SCN dated 31.07.2023 based on findings in the investigation report submitted by IR-4 in CIRP of CD-2. Mr. Vineet Aggarwal submitted his comments to SCN dated 31.07.2023 on 14.08.2023. The IBBI referred the SCNs, written submissions of Mr. Vineet Aggarwal and other material available on record, to the DC for disposal of the SCNs in accordance with the Code and Regulations made thereunder.

2.4 Mr. Vineet Aggarwal was given an opportunity for a personal hearing before the DC on 06.10.2023. On 05.10.2023, he requested to adjourn the hearing and for a further time of two weeks submit his reply to SCN dated 08.05.2023. However, he failed to submit any reply. He was again given the opportunity for a personal hearing on 01.11.2023 and another opportunity to submit his comments of SCN dated 08.05.2023. However, on 31.10.2023 Mr. Vineet Aggarwal submitted that he has provided his response *vide* email dated 14.08.2023 and it also covers point raised in the SCN No. COMP-11011/46/2022-IBBI dated 08.05.2023. He submitted that he does not have anything further to submit during personal hearing and requested to abstain from personal hearing and dispose of the SCNs on the basis of his submission already provided..

3. Alleged contraventions, submissions and findings.

Contraventions alleged in the SCN and Mr. Vineet Aggarwal's submissions thereof are summarized below:

3.1 Contravention-I

Non-cooperation with IA

3.1.1 The Board noted that a notice of investigation asking for reply, along with supporting documents in the matter of CD-1, was served on Mr. Vineet Aggarwal by IA-1 on 14.09.2022, and on his failure to respond to the said notice, a reminder was sent *vide* email dated

06.10.2022 requesting him to submit his response. It is noted that he failed again to reply to the notice of investigation by IA-1, and on his failure to respond, however he again failed to respond to the said reminder.

- 3.1.2 Similarly, IA-2 sent a notice of investigation asking for his reply, along with supporting documents in the matter of CD-1 on 28.10.2022, and on his failure to respond to the said notice, a reminder was sent *vide* email dated 07.12.2022 requesting him to submit his response. It is noted that he again failed to submit his reply to the notice of investigation by IA-2, and consequent to such failure to reply, another reminder was sent *vide* email dated 13.12.2022, however, he failed to reply on the same.
- 3.1.3 IA-3 also sent a notice of investigation to Mr. Vineet Aggarwal asking for his reply, along with supporting documents in the matter of CD-2 was served on him by the on 24.11.2022, and on his failure to respond to the said notice, a reminder was sent *vide* email dated 07.12.2022 requesting him to submit his response. It is noted that he failed again to submit his reply to the notice of investigation by IA-3, and on his failure to respond, another reminder was sent *vide* email dated 13.12.2022, however, he failed to reply on the same.
- 3.1.4 IA-4 also sent a notice of investigation on 29.05.2023 requesting Mr. Vineet Aggarwal to provide response to the allegations raised therein. Subsequently, reminders were sent by IA *vide* emails dated 14.06.2023 and 05.07.2023 seeking his reply. He provided his response to the notice of investigation on 20.07.2023.
- 3.1.5 It is noted that Mr. Vineet Aggarwal failed to submit the reply/records/documents within the time prescribed by the IA and that he has not extended sufficient and appropriate co-operation to the IA, as may be required to carry out the inspection, which is his duty as an IP under regulation 8(4) of the Investigation regulations. Accordingly, the Board held a *prima facie* view that, that Mr. Vineet Aggarwal had *inter alia* violated regulation 8(2), 8(4) and 8(8) of Investigation Regulations and regulation 7(2)(h) of the IBBI (Insolvency Professional) Regulations, 2016 (IP Regulations) clause 18 and 19 of the Code of Conduct as specified in the First Schedule of IBBI (Insolvency Professional) Regulations, 2016. (Code of Conduct).

Summary Findings.

- 3.1.6 Since Mr. Vineet Agrawal did not provide any plausible reason on above non-reply or delay reply to the notices of investigation, the DC proceeds to make findings on the basis of material available on records. The DC notes that Mr. Vineet Agrawal did not provide any reply to IA-1, IA-2 and IA-3 at all while it submitted its reply to IA-4 after a delay. Even if the DC proceeds to condone the delay in providing reply to IA-4, the non-cooperation to other notices of investigation would be hard to ignore. The Investigation Regulations fixes a duty upon an IP to produce before the Investigating Authority records in his custody or control, furnish such statements and information relating to its activities and provide all assistance which the Investigating Authority may reasonably require in connection with the investigation. The DC finds that Mr. Vineet Agarwal has erred in his duties towards respective IAs despite repeated reminders being sent to him and hence the above contravention alleged by the Board are made

out herein.

In the matter of JSM Devcons India Private Limited (CD-1)

3.2 Contravention-II

Delay in conducting first meeting of Committee of Creditors

3.2.1 It is noted that, the CIRP of CD-1 commenced on 12.04.2019 and the first meeting of committee of creditors (CoC) was conducted on 21.10.2019, i.e., after more than 180 days from the commencement of CIRP. It is further noted that CIRP of the CD-1 was extended by 90 days beyond 180 days *vide* order of the AA dated 03.01.2020 which means that the meeting of 1st CoC was conducted in an irregular manner as by then there was no order of AA extending the CIRP of the CD beyond 180 days. Thus, the Board held the *prima facie* view that, that Mr. Vineet Aggarwal had *inter alia* violated section 22 of the Code read with Clause 1, 2, 13 and 14 of the Code of Conduct.

Summary Findings.

3.2.2 Since Mr. Vineet Agrawal has not provided any comments on the above issue, the DC proceeds to make findings on the basis of material available on records. The DC notes that as per CIRP Form-3 filed by Mr. Vineet Agarwal, application for constitution of CoC was filed by him on 20.05.2019 which included prayer to appoint Authorised Representative (AR) and order for appointment of AR was passed on 09.10.2019. Thereafter, Mr. Vineet conducted first meeting of CoC on 21.10.2019 whose minutes noted that the period of 180 days for completion of CIRP has expired on 10.10.2019 and application for extension has been filed under section 12(2) of the Code. In minutes of 2nd CoC meeting dated 10.12.2019, it is mentioned that the said application was listed on 21.11.2019 and the AA directed to call meeting and pass resolution for extension of time with requisite majority. Section 12(2) mandates that an application to the AA to extend the period of the CIRP beyond one hundred and eighty days shall be filed after approval of the CoC with sixty-six percent of the voting shares. Accordingly, Mr. Vineet Agarwal proposed the resolution for extension of time before CoC in 2nd CoC meeting. The above facts highlight that Mr. Vineet Agarwal did not conduct the first CoC meeting within seven days of the constitution of CoC, ie, 09.10.2019 as provided under section 22 of the Code. Hence the DC upholds the above contravention.

3.3 Contravention-III

Shorter period of notice for conducting the meeting of Committee of Creditors

3.3.1 It is noted that from the notice of second meeting of the CoC and the agenda contained therein, issued on 07.12.2019, which stated that the said meeting shall be held on 10.12.2019, that only 3 days period of notice was given for the same. It is noted that the period of notice was less than 5 days as required in the regulation 19(1) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations). Thus, the Board held the *prima facie* view that Mr. Vineet Aggarwal had *inter alia* violated regulation 19(1) of the CIRP

Regulations and clause 13 and 14 of the Code of Conduct.

Summary Findings.

3.3.2 Since Mr. Vineet Agrawal has not provided any comments on the above issue, the DC proceeds to make findings on the basis of material available on records. The DC notes that the second meeting of the CoC was conducted within a time frame of just three days from the date of the notice issued on 07.12.2019. Regulation 19(2) of CIRP Regulations provides that CoC may reduce the notice period from five days to such other period of not less than twenty-four hours. The DC observes that minutes of the concerned CoC does not reflect any objection from the CoC member and hence inclined to take a lenient view on this count.

3.4 Contravention-IV

Non-appearance before the Adjudicating Authority

3.4.1 It is observed that despite the directions of the AA *vide* its orders dated 19.01.2023 and 16.02.2023 seeking personal appearance of Mr. Vineet Aggarwal as the matter was pending for a long time, he failed to comply them. The AA made adverse observation against him for not appearing before the AA despite the specific direction given and *vide* order dated 24.03.2023 referred the matter to Board for taking appropriate action. By not appearing in person before the AA despite its repeated directions, the Board held the *prima facie* view that Mr. Vineet Aggarwal has contravened sections 25(2)(b), 208(2)(a) and (e) of the Code, regulations 7(2)(a) and (h) of the IP Regulations read with clause 14 of the Code of Conduct.

Submissions of the IP.

3.4.2 Mr. Vineet Aggarwal submitted that due to personal difficulties he could not appear on 13.01.2023, however the advocate appeared online and came to know about the fact that application has been filed for his removal. He submitted that all applications filed by the homebuyers pertains for declaration that their plots should not form part of the assets of CD-1 under CIRP. He has filed a reply in Interlocutory Application 43/2020 filled before AA and has adopted the same in all pending applications which can be seen from the order dated 02.08.2021. Further, in order dated 13.01.2022 the AA has noted that pleadings in all applications are complete in all respect and the order of the AA was awaited. Further the AA in order dated 21.04.2022 has noted stay by Hon'ble NCLAT and next dated fixed was 16.06.2022. Thereafter some more applications have been filed by homebuyers seeking same relief and since he has taken a common stand and has adopted the reply filed in Interlocutory Application 43/2020 for all other applications, there was no occasion for him to file separate replies which can be verified by the order dated 02.08.2021.

3.4.3 He submitted that he was pursuing the matter diligently and in spite of that, for none of his fault application was filed for his removal on 13.01.2023. Pained by the attitude of CoC and the AA, he decided not to oppose his removal and declined to file any reply against the application for his removal.

Summary Findings.

3.5 The DC notes the submissions of Mr. Vineet Aggarwal that the reply in Interlocutory Application 43/2020 has adopted in all pending applications which can be seen from the order dated 02.08.2021 and pleadings were complete as per order dated 31.01.2022. The DC notes that more applications were filed thereafter, and the AA *vide* order dated 22.12.2022 directed Mr. Vineet Aggarwal to file affidavit. However, he did not appear before the AA not just on 13.01.2023 but also on 19.01.2023, 03.03.2023 and 24.03.2023. Thus, it is evident that Mr. Vineet Aggarwal failed to comply with direction of the AA for appearance which is also contravention of section 25(2)(b) of the Code. Hence, the DC while upholding the above contravention also takes exception to contemptuous language used against the AA. As made out in his submissions he has no *locus-standi* to question of the wisdom of the AA on grounds of its alleged “attitude”.

Contravention-V

Non-conduct of the CIRP proceedings

3.5.1 It is observed that the 6th CoC meeting was conducted by Mr. Vineet Aggarwal on 25.02.2021. It is, however, observed that subsequent to the 6th CoC meeting held on 25.02.2021, no steps were taken by him for a period of more than two years for conducting the CIRP of the CD-1 or to manage the affairs of the CD-1 or even to file for liquidation.

3.5.2 Due to inordinate delay in conducting the CIRP proceedings and the CoC meetings, the AA was constrained to appoint another IP to conduct a CoC meeting for appointing a new RP *vide* its order dated 19.05.2023 stating as follows:

“On this, it is submitted that the CoC could not be conducted because the present RP is neither conducting any meeting nor appearing before the adjudicating authority in-spite of the directions; and that in absence of any call from the side of the RP for holding the COC meeting, it is difficult to get all the plot-buyers, being member of COC, assembled for any meeting to take any call as regards to appointment of any new RP.

We have taken note of the facts of this case and keeping in view the inordinate delay in the CIRP on account of the failure of the present RP to discharge his functions in accordance with the provisions of IBC, we are of the view that let Ms. Chaya Gupta conduct a meeting of the CoC within 15 days from passing of this order and the CoC may take a call as to whether they would like Ms. Chaya Gupta to be appointed & confirmed as a new RP or they wish to propose someone else.”

3.5.3 Thereafter, the AA *vide* its order dated 06.07.2023 removed Mr. Vineet Aggarwal and confirmed the appointment of Ms. Chaya Gupta as RP. While passing the said order, the AA has made following observation:

“It has been pointed out that the RP has failed to convene the required CoC meetings and by this time almost more than three years have passed and there is no satisfactory progress in the CIRP.”

3.5.4 In view of the above, the Board held the *prima facie* view that Mr. Vineet Aggarwal has *inter*

alia violated sections 23(1), 208(2)(a) and (e) of the Code, regulations 40A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and regulation 7(2)(h) of IP Regulations read with Clause 2, 13 and 14 of the Code of Conduct.

Submissions of the IP.

- 3.5.5 Mr. Vineet Aggarwal submitted that the CIRP commenced in the case on 12.04.2019 and a resolution plan filed by Alkon Projects was approved by the CoC on 09.06.2020 and the same was filed for approval of the AA. However, the AA directed the CoC and him to reconsider the resolution plan vide order dated 12.01.2021 and directed that the grievance of Union Bank as well as some of the homebuyers should be reconsidered by the resolution applicant.
- 3.5.6 He submitted that the 5th Meeting of CoC was called on 06.02.2021 to consider the order passed by the AA dated 12.01.2021 and the resolution applicant was requested to submit modified resolution plan on or before 20.02.2021. The resolution applicant in order to extricate from the terms and conditions of resolution plan previously filed by him, totally changed the resolution plan, which was not acceptable to CoC for being against the terms of RFRP resulting into rejection of modified plan by the CoC in its 6th meeting held on 25.02.2021 and the CoC further categorically directed him to forfeit all deposit submitted by resolution applicant and utilise the same towards meeting the CIRP cost and legal expenses etc.
- 3.5.7 He further submitted that any delay afterwards is directly attributable to the various legal proceedings filed by members of CoC at different point of times as well as the application filed by different home buyers and also due to time taken by the AA in making the orders. The fact of the case is that the CD-1 has a piece of land in Indore, which was to be developed by the CD-1 for which it took loan of Rs.30 crores from Union Bank of India and mortgaged the total land to secure the repayment of loan. However, the directors of the CD-1 illegally sold the land to various parties without obtaining NOC from the bank and without depositing the sale proceeds in the escrow account as per the loan agreement. The question of law which arose was that whether the registry sale in contravention to mortgage was a valid sale of the property and the matter was further complicated by the order dated 25.03.2021 passed by the AA, where it was directed that land sold through registered sale deeds should not considered as part and parcel of the assets of CD-1, thereby jeopardising the CIRP as the resolution became impossible because more than 90% of the plots were sold once or even twice by the directors of the CD-1 and there was no possibility of resolution. In order to challenge the aforesaid order of AA dated 25.03.2021, appeals were filed both by CoC and RP bearing CA (Ins) 490/2021 and 491/2021. The AA upon being apprised of the filing of said appeals decided not proceed further, till the appeal is decided by Hon'ble NCLAT, which was decided on 16.02.2023 and the order was uploaded later on.
- 3.5.8 He submitted that there was no intentional delay on his part for a single day, however, he has no control over legal proceedings and litigations, which were the only reason for causing delay in the process.

Summary Findings.

3.5.9 The DC notes that the rejection of modified plan by the CoC in its 6th meeting held on 25.02.2021 does not lead to closure of CIRP. The CoC in its 6th meeting noted as follows:

“They directed the Resolution professional to publish a short term Form G and on-board a new Resolution Applicant, post requesting the Hon’ble NCLT Bench to grant some extension of time of 2 months atleast so that all the above actions can be completed satisfactorily. This will ensure that CoC gets a viable and mutually beneficial resolution plan. The CoC is of firm view to continue and properly complete resolution of the project by finding and on-boarding a new resolution applicant.”

In the light of above discussion highlighting intention of the CoC, there has been no proof of conduct of CIRP any further for invitation of further resolution plan or considering CD-1 for liquidation. The AA vide order dated 19.05.2023 observed as follows:

“We have taken note of the facts of this case and keeping in view the inordinate delay in the CIRP on account of the failure of the present RP to discharge his functions in accordance with the provisions of IBC...”

The DC notes that the 7th CoC meeting conducted only on 26.05.2023 after direction of the AA vide order dated 19.05.2023 where resolution for replacement of RP was passed. The facts highlight inactivity on part of Mr. Vineet Aggarwal in taking forward the CIRP of CD-1. Hence the DC upholds the above contraventions.

3.6 Contravention-VI

Non-cooperation in handing over assets to new RP

3.6.1 It is observed that pursuant to the AA order dated 06.07.2023, Ms. Chaya Gupta replaced Mr. Vineet Aggarwal as the RP and the AA directed him to handover the relevant document to the new RP as follows:

“6. Accordingly, Mr. Vineet Aggarwal is directed to hand over the control of the Corporate Debtor to the new RP Ms. Chaya Gupta. Mr. Vineet Aggarwal is also directed to hand over the documents of the Corporate Debtor as well as the relevant records related to the CIRP of the Corporate Debtor forthwith to Ms. Chaya Gupta, the new RP. Ms. Chaya Gupta is directed to take up the CIRP of the Corporate Debtor ahead of the present stage.”

3.6.2 However, despite the directions, Mr. Vineet Aggarwal failed to handover the relevant documents/ information relating to CIRP of the CD-1. Ms. Chaya Gupta, RP vide email dated 26.07.2023 has informed to the Board that the data of CD along with the official CIRP e-mail ID access has not been shared with her. In view of the aforesaid, it is observed that Mr. Vineet Aggarwal have adopted a negligent approach in discharging his duties under the Code and failed to provide coordination in smooth transition in handing over the custody and possession of records to the new RP in detriment to the interest of the CD-1 and its stakeholders.

3.6.3 In view of the above, the Board held the *prima facie* view that Mr. Vineet Aggarwal has, *inter alia*, contravened sections 23(3) and section 208(2)(a) of the Code, regulation 7(2)(a) & (h) of IP Regulations read with clauses 1, 12, and 14 of the Code of Conduct.

Submissions of the IP.

3.6.4 Mr. Vineet Agrawal denied non-cooperation in handing over the charge to the new RP Ms. Chaya Gupta. He submitted that new RP Ms. Chaya Gupta for the first time informed about her appointment on 12.07.2023 and asked for handing over. He provided documents through email to new RP Ms. Chaya Gupta on 24.07.2023 and has fully handed over the entire details with the password and email id created for CIRP on 27.07.2023. Some delay was due to hospitalization of his mother in Pune and he was compelled to visit Pune due to serious health conditions of his mother aged about 83 years and the said fact was informed to the new RP Ms. Chaya Gupta. Even after getting information on 26.07.2023, the new RP made a complaint to the IBBI on 26.07.2023 for non-cooperation, when the handing over was under progress with *mala fide* intentions.

Summary Findings.

3.6.5 The DC notes the submission of new RP Mr. Chhaya Gupta before AA as narrated in order dated 07.09.2023

“RP, Ms. Chaya Gupta submits that for the last two months, she has made more than 10 correspondences via e-mail and requested the earlier RP, Mr. Vineet Agarwal to hand over the entire document during the CIRP but he has only submitted the part documents with which it is not possible to proceed the CIRP ahead.

On that ground, RP is making a request that she must be allowed to start the process afresh.

RP also points out that yesterday, vide e-mail dated 06.09.2023, earlier RP, Mr. Vineet Agarwal responded saying that the physical records are lying in his office, NOIDA and someone may be deputed to collect all those documents from his office.”

The AA took note of the above submissions as observed as follows:

Therefore, we direct the present new RP, Ms. Chaya Gupta to prepare a report and submit it to the IBBI for necessary action with a copy to the Deputy Registrar of the Bench also and to depute someone to collect all those physical records as stated by the earlier RP, Mr. Vineet Agarwal vide his e-mail dated 06.09.2023 and also submit an affidavit as to whether with the help of all the files which have been shared so far and physical records, if handed over by the earlier RP, Mr. Vineet Agarwal, it is possible for her to proceed ahead in the matter or not and, if not, then what are the steps required for that?

The DC notes that *prima facie* there appears to be non-cooperation on behalf of Mr. Vineet Aggarwal. He provided documents and information in piecemeal to the new RP which further hampered the already delay in process. Even if the DC takes lenient view in light of the

medical condition in family Mr. Vineet Aggarwal, still he has been in continued non-cooperation with the RP. Hence, the DC is constrained to uphold the above contravention.

3.7 **Contravention-VII**

Embezzlement of Earnest Money Deposit

- 3.7.1 It is observed that Mr. Vineet Aggarwal had published the Expression of Interest (EoI) on 20.03.2020 in the Free Press Journal (English) and Indore Samachar (Hindi). Pursuant to which he had prepared a final list of eligible Prospective Resolution Applicants (PRA) on 09.04.2020 and had indicated M/s Alkon Projects as the only PRA. It is observed from the application filed by the 52 homebuyers before the AA seeking to replace Mr. Vineet Aggarwal as the RP, that the EMD deposited by the M/s Alkon Projects was forfeited by him and was misappropriated for personal benefits. In this regard the AA *vide* its order dated 24.03.2023 while referring the matter to the Board has also observed as follows:

“Learned counsel appearing for AR (the Financial Creditors as a class) submitted that the RP is absconding, as he has embezzled the amount of EMD submitted by the Proposed Resolution Applicant.”

The CIRP Form-4 indicating various dates with regard to process of obtaining resolution plan and Interlocutory Application filed by the homebuyers.

- 3.7.2 It is further observed that in the 6th CoC Meeting the CoC had directed to forfeit the security deposit amount of M/s Alkon Projects and to utilise it in a specified order for various items enumerated. However, afterwards no further CoC meetings were conducted nor was the CoC informed regarding the manner the forfeited security deposit was utilised. Further, Mr. Vineet Aggarwal failed to reply to the IA as to the manner in which the forfeited EMD amount was utilized. Moreover, Mr. Vineet Aggarwal has also not handed over documents and records to new RP. Hence, it is observed that he failed to manage the assets of the CD and misappropriated the security amount.

- 3.7.3 In view of the above, the Board held the *prima facie* view that Mr. Vineet Aggarwal has *inter alia* violated sections 23(1), 208(2)(a) and (e) of the Code and regulations 4(1)(g) and 7(2)(b) & (h) of IP Regulations read with clauses 1, 2, 4 and 14 of the Code of Conduct.

Submissions of the IP.

- 3.7.4 Mr. Vineet Aggarwal denied that a single paisa has been mis-utilized or embezzled by him. The fact is that when the CoC in its sixth meeting held on 25.02.2021 decided to reject the resolution plan of the resolution applicant Alkon Project for not adhering the order dated 12.01.2021 and for contravening terms of RFRP, it categorically directed him to forfeit the security deposits of resolution applicant and utilize the same towards CIRP expenses. He submitted that the CoC is under obligation for providing payments towards the CIRP expenses and they specifically directed the RP to utilize the forfeited funds and the same is minutised and is part of the records.

3.7.5 Mr. Vineet Aggarwal submitted that when the application Interlocutory Application 22 of 2022 for release of security deposit was filed by Alkon Projects, he filed a reply on 09.03.2022 and has specifically mentioned that the amount was forfeited for contravention of the RFRP by the resolution applicant as per the decision of CoC on 25.02.2021 and the same has been utilized as per their directions to meet CIRP expenses. Further one Niraj Gupta fraudulently misled the AA by mentioning that he is appearing as advocate of Authorized Representative (AR) and made false allegations against him for embezzlement of funds. However, upon coming to know about the misrepresentation he wrote to the AR demanding explanation for the same. The AR totally denied the allegation made by Niraj Gupta as he has not engaged him as his advocate and later on provided a copy of the Interlocutory Application no.148/2023 for correction of the order of the AA dated 24.03.2023 in this regard.

Summary Findings.

3.7.6 The DC notes that CoC in its 6th CoC meeting dated 25.02.2021, directed Mr. Vineet Aggarwal to forfeit the full security money including the bank guarantee. Mr. Vineet Aggarwal submitted that the forfeited amount has been utilized to meet CIRP expenses as per direction of the CoC and therefore inclined to take lenient view on this count.

3.7.7 The DC further notes that Mr. Anish Agarwal (erstwhile AR of CD-1) filed an Interlocutory Application 148/2023 dated 24.04.2023 submitting that he or his advocate was not present before the AA on 24.04.2023 and denied making any submission as recorded by the AA. He prayed for recall or amendment of order dated 24.03.2023. However, there is no order by the AA on the above application.

Common contraventions in CD-1 and CD-2

3.8 Contravention-VIII

Non-submission of CIRP Form with the Board in CD-1

3.8.1 IBBI Circular No. IBBI/CIRP/023/2019 dated 14.08.2019 on ‘*Filing of Forms for the purpose of monitoring corporate insolvency resolution processes and performance of insolvency professionals under the Insolvency and Bankruptcy Code, 2016 and the regulations made thereunder*’, mandates that, an IP shall file electronically the Forms along with relevant information and records, in respect of all CIRPs, both closed and ongoing, conducted by him and the Forms along with relevant information and records by the timelines as specified.

3.8.2 However, it is observed that CIRP Forms 1, 3, 4 and 6 has been submitted by Mr. Vineet Aggarwal to the Board after a substantial delay as follows:

Form	Due Date	Date of Submission	Delay (in days)
CIRP Form 1	30.09.2019	16.10.2019	16
CIRP Form 3	26.03.2020	05.06.2020	71
CIRP Form 4	11.04.2020	05.06.2020	55

CIRP Form 6	16.10.2019	17.11.2019	32
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3.8.3 In view of the above, the Board held the *prima facie* view that Mr. Vineet Aggarwal has *inter alia* violated section 208(2)(e) of the Code, regulation 40B of the CIRP Regulations and regulation 7(2)(a) & (h) of IP Regulations read with clauses 15 and 19 of the Code of Conduct also read with circular No. IBBI/CIRP/023/2019 dated 14.08.2019.

Non-filing of CIRP forms in CD-2

3.8.4 The Board observed that Mr. Vineet Aggarwal failed to submit CIRP Form 3, Form 4 within the time prescribed under the CIRP Regulations. It is noted that CIRP Form 3 and Form 4 were filed with a delay of 92 days, and that Mr. Vineet Aggarwal failed to file Form 5 as prescribed under the CIRP Regulations. Thus, the Board held the *prima facie* view that he had *inter alia* violated regulation 40B of CIRP Regulations read with clause 13 of the Code of Conduct.

Submissions of the IP.

3.8.5 Mr. Vineet Aggarwal submitted that there may some procedural lapses in filing of CIRP Forms, which were technical glitches in the site of the Board, which he requested to be condoned.

Summary Findings.

3.8.6 Since the above contraventions pertain to filing of CIRP forms in both CDs, the DC proceeds to deal with them together. Mr. Vineet Agrawal submitted that his reply to SCN dated 31.07.2023 shall also be considered for contraventions in SCN dated 08.05.2023. Hence after considering the above submissions and the material available on records, the DC notes that the delay mentioned above is large to be adduced to technical glitches. Even if the delay in filing of the forms is condoned, the DC cannot ignore that Mr. Vineet Agarwal did not file Form-5 in case of CD-2 which was required to be filed on initiation of liquidation of CD-2. Moreover, there has been multiple instances of delay as recorded above.

3.9 Contravention-IX

Delay in submission of Relationship and Cost Disclosure Forms in CD-1

3.9.1 The IBBI Circular No. IP/005/2018 dated 16.01.2018 on '*Disclosures by Insolvency Professionals and other Professionals appointed by Insolvency Professionals conducting Resolution Processes*', specifies that, an IP shall ensure disclosure of the relationship, if any, of the other professional engaged by him with himself, the CD, Financial Creditor, Interim Finance Provider and Prospective Resolution Applicant to the Insolvency Professional Agency (IPA) of which he is a member, within the time specified. The same is reiterated in the clause 8C of Code of Conduct which states that an IP shall ensure disclosure of the relationship of the other professionals to the IPA of which he is a member and clause 19 of the said Code of Conduct also dictates an IP to provide all information and records as may be

required by the Board or the IPA with which he is enrolled. It is observed that there was delay in the submission of relationship disclosure of various professionals appointed by Mr. Vineet Aggarwal to the IPA as follows:

Details	Date of Appointment	Date of Submission	To be filed within (As per IBBI circular dated 16.01.2018)	Delay (in days)
Md. Azeem (Advocate)	15.04.2019	28.06.2019	3 days from date of appointment	71 days
Mr. Vineet Aggarwal (IRP)	12.04.2019	21.06.2020	3 days from date of appointment	433 days
Mr. Vineet Aggarwal (RP)	21.10.2019	21.06.2020	3 days from date of appointment	241 days
Registered Valuer– Deepak Bansal	21.03.2020	21.06.2020	3 days from date of appointment	89 days
Registered Valuer- Shiv Kumar Gupta	21.03.2020	21.06.2020	3 days from date of appointment	89 days
Magnus Legal Services LLP- Advocate	16.04.2019	21.01.2020	3 days from date of appointment	277 days
Magnus Legal Services LLP- Advocate	21.10.2019	01.02.2020	3 days from date of appointment	100 days
Financial Creditor	11.05.2019	21.06.2020	3 days from Constitution of CoC	404 days

3.9.2 The IBBI Circular No. IBBI/IP/013/2018 dated 12.06.2018 on ‘*Fee and other Expenses incurred for Corporate Insolvency Resolution Process*’, mandated that, IP is directed to disclose fee and other expenses in the relevant Form to the IPA of which he is a member for all concluded CIRPs and for ongoing and subsequent CIRPs within the time as specified in the relevant Form. However, it is observed that Form-I and II of Cost Disclosure has been submitted by you after the stipulate timeline of the seven days of his demitting office as IRP as follows:

Form	Date of Submission	Due Date	To be filed	Delay (in days)
Form I (Details of CD undergoing by IRP)	23.06.2020	28.10.2019	Within 7 days of demitting office as IRP	238
Form II (Insolvency Resolution Process Cost of CD for the period under IRP)	10.10.2020	28.10.2019	Within 7 days of demitting office as IRP	347

3.9.3 An IP is obliged under the Code to take reasonable care and diligence while performing their duties, including making timely disclosures to ensure transparency and accountability. Hence, by failing to make timely relationship disclosure of the professionals appointed by Mr. Vineet

Aggarwal and the cost disclosure, a doubt is casted on the transparent conduct of the processes under the Code.

- 3.9.4 In view of the above, the Board held the *prima facie* view that Mr. Vineet Aggarwal has *inter alia* violated section 208(2)(a) & (e) of the Code, regulation 34A of the CIRP Regulations and Regulation 7(2)(h) of IP Regulations read with clause 8C and 13 of the Code of Conduct also read with Circular No. IP/005/2018 dated 16.01.2018 and Circular No. IBBI/IP/013/2018 dated 12.06.2018.

Non-disclosure of relationship in CD-2

- 3.9.5 The Board noted that Mr. Vineet Aggarwal filed various relationship disclosures including about his own appointment with delay in breach of the timelines specified in the circular, which is illustrated in the table as hereunder:

Details	Date of Appointment	Date of submission	To be filed within (According to IBBI circular dated 16.01.2018)	Delay of
Mr. Vineet Aggarwal (RP)	23.10.2019	21.06.2020	3 days from date of appointment of IP	239 days
Registered Valuer (Manish Chandra)	10.08.2019	21.06.2020	3 days from date of appointment of Registered Valuer	313 days
Registered Valuer (Subodh Kumar)	10.08.2019	21.06.2020	3 days from date of appointment of Registered Valuer	313 days
Registered Valuer (Ramanjeet Singh)	10.08.2019	21.06.2020	3 days from date of appointment of Registered Valuer	313 days
Registered Valuer (Brahm Pal)	10.08.2019	21.06.2020	3 days from date of appointment of Registered Valuer	313 days

- 3.9.6 Thus, the Board held the *prima facie* view that Mr. Vineet Aggarwal had *inter alia* violated Board circular dated 16.01.2018 and clause 13 of the Code of Conduct.

Summary Findings.

- 3.9.7 Since the above contraventions pertain to filing of disclosures with IPA in both the CDs, the DC proceeds to deal with them together. Mr. Vineet Agrawal has not provided any specific

reply on above contraventions. The DC considered the material available on records and notes that the disclosure by IP were filed with substantial delay as enumerated above. Such delay defeats the whole purpose of having the timelines for disclosures whose purpose is to make the process transparent. Hence the DC upholds the above contraventions.

4. Order

- 4.1 In view of the forgoing discussion and materials available on record, the DC finds that the IP failed in discharge of his duties on multiple counts, and in view of the observations and analysis, the DC notes that the conduct of the IP contravening provisions of the Code and the rules and regulations thereunder is established.
- 4.2 Contraventions by Mr. Vineet Aggarwal were recorded and upheld earlier also. He was suspended from taking assignment under IBC for a period of two years starting from 13.04.2023, as IP. The underlying theme is habitual non-cooperation with the authorities.
- 4.3 Several contraventions as per discussion above have been established without iota of doubt. This DC finds it unthinkable that an Insolvency Professional refuses to obey or cooperate with AA and instead has gone on to mention in his submissions that he is “pained” by the “attitude” of the AA. This was further compounded by the fact that he consistently refrained from extending due cooperation with the Board appointed investigating officers. Submissions of forms to the Board with considerable delay tantamount to lackadaisical behavior, bereft of required professionalism, which otherwise is a necessary precondition for discharging duties bestowed to an IP under the provisions of the Code. Keeping this in view, 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 cancels the registration of Mr. Vineet Aggarwal (Registration No. IBBI/IPA001/IP-P00475/2017-2018/10818) with immediate effect.
- 4.4 A copy of this order shall be sent to the CoC of all the Corporate Debtors in which Mr. Vineet Aggarwal was providing his services, if any.
- 4.5 A copy of this order shall be forwarded to the Indian Institute of Insolvency Professionals of ICAI where the IP is enrolled as a member.
- 4.6 A copy of this Order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal.
- 4.7 Accordingly, the show cause notice is disposed of.

-sd/-

(Sudhaker Shukla)

Whole Time Member, IBBI

Dated: 20th November 2023

Place: New Delhi