

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

[Authority delegated by the Central Government vide notification no. GSR 1316(E) dated 18-10-2017 under section 458 of the Companies Act, 2013 read with rule 2(1)(b) of the Companies (Registered Valuers and Valuation) Rules, 2017]

IBBI/Valuation/Disc./05/2021

08th April, 2022

ORDER

In the matter of Mr. Nanak Chand Gupta, Registered Valuer (RV) under Rule 15 and 17 of the Companies (Registered Valuers & Valuation) Rules, 2017.

This Order disposes of the Show Cause Notice (SCN) dated 25th May 2021 issued to Mr. Nanak Chand Gupta, who is a member of the IOV Registered Valuers Foundation (IOVRVF) and registered with the Insolvency and Bankruptcy Board of India (IBBI) as a valuer in the asset class of Land and Building with the registration number IBBI/RV/02/2019/11239.

1. Background

- 1.1 The IBBI has been delegated by the Central Government to perform the functions as the Authority under the Companies (Registered Valuers and Valuation) Rules, 2017 (Valuer Rules). Mr. Nanak Chand Gupta, who is a member of the IOVRVF (RVO) was registered with the IBBI as valuer in the asset class of Land and Building with the registration number IBBI/RV/02/2019/11239 on 05.04.2019.
- 1.2 It has come to the notice of the IBBI that Mr. Nanak Chand Gupta was appointed as the valuer of Union Bank of India (UBI) and provided inflated valuation for the properties kept as collateral for the loan amounts disbursed by UBI. The FIR was filed against Mr. Nanak Chand Gupta by the Central Bureau of Investigation, New Delhi, on the basis of complaint made by Union Bank of India, for his role as valuer of the bank and thereby providing inflated valuation for the properties kept as collateral for the loan amounts disbursed by Union Bank of India. The FIR is filed for offences under sections 120B IPC read with sections 420, 467, 468 and 471.
- 1.3 An SCN dated 25.05.2021 was issued to Mr. Gupta on the basis of material available on record under the rule 17 of the Valuer Rules, seeking his written reply and offering him an opportunity of personal hearing. The Authority had sent an e-mail dated 02.09.2021 to Mr. Gupta seeking clarification from him, along with submission of necessary documents. However, no response was received from Mr. Gupta.
- 1.4 Personal hearing in the matter was scheduled on 17.12.2021 for Mr. Gupta and e-mail regarding the same was sent to him. However, the hearing got postponed on the request of Mr. Gupta. Finally, Mr. Gupta submitted his response on 20.12.2021 and availed the opportunity of virtual personal hearing on 22.02.2022.

2. Contravention

The alleged contraventions in the SCN are summarised as follows:

- 2.1 The IBBI, acting as the Authority under the Valuer Rules, has granted Mr. Gupta registration as a Valuer under the Rules, in the asset class - Land and Building, with the registration number IBBI/RV/02/2019/11239 on 05.04.2019.
- 2.2 It is observed that an FIR dated 04.04.2019 has been filed against Mr. Nanak Chand Gupta by the Central Bureau of Investigation, New Delhi, on the basis of complaint made by Union Bank of India, for his role as valuer of the bank and thereby providing inflated valuation for the properties kept as collateral for the loan amounts disbursed by Union Bank of India. The FIR is filed for offences under sections 120B IPC read with sections 420, 467, 468 and 471.
- 2.3 It is further noted that Mr. Gupta was requested to provide the details of further action that may have initiated against him with respect to the above-referred FIR. However, even after repeated email communications (emails dated 30.04.2021 and 09.05.2021), no response was received from him.
- 2.4 In view of the foregoing, Mr. Gupta has contravened provisions of rules 3(1)(k), 7(a) and (g) of the Valuer Rules. The offences under which the FIR is registered are serious in nature and therefore may significantly impinge on integrity, reputation and character of Mr. Gupta and may make him not 'fit and proper' for being eligible for registration as a valuer, as stipulated under rule 3(1)(k) of the Rules.

3. Submissions

Submissions by Mr. Nanak Chand Gupta with regard to the aforesaid contraventions are summarised as follows:

- 3.1 Mr. Gupta submitted in his reply that he was not aware that the said FIR was lodged against him till date. Mr. Gupta stated that he came to know of the same only through the letter dated 26.08.2021 sent by his RVO bearing No. MC/IOV-RVF/1/2021-22. He stated that the matter may be under investigation and that he had not been charge-sheeted till date.
- 3.2 During the personal hearing Mr. Gupta reiterated the submissions made in his reply and stated that he was unaware of the criminal proceedings initiated against him and came to know of the same when he received aforementioned letter from the RVO. He further submitted that he has not been charge-sheeted till date.

4. Analysis and Findings

- 4.1 The Valuer Rules provides a comprehensive framework for development and regulation of the profession of valuers. These Valuer Rules set standards of professional conduct and performance for the valuation profession in the interest of stakeholders. The valuation profession has diverse practices and to establish the integrity in the process of valuation and inspire confidence among the stakeholders, the Code as well as the Valuer Rules emphasized importance of engagement of registered valuers for the purpose of valuation of the corporate debtor.
- 4.2 Rules 3 and 7 of the Valuer Rules provide for eligibility and conditions for registration of valuers which read as under:

“3. Eligibility for registered valuers.— (1) A person shall be eligible to be a registered valuer if he-

(k) is a fit and proper person:

Explanation.— For determining whether an individual is a fit and proper person under these rules, the authority may take account of any relevant consideration, including but not limited to the following criteria-

(i) integrity, reputation and character,

(ii) absence of convictions and restraint orders, and

(iii) competence and financial solvency.”

“7. Conditions of Registration.— The registration granted under rule 6 shall be subject to the conditions that the valuer shall –

(a) at all times possess the eligibility and qualification and experience criteria as specified under rule 3 and rule 4;

(b) at all times comply with the provisions of the Act , these rules and the Bye-laws or internal regulations, as the case may be, of the respective registered valuers organisation;

(g) comply with the Code of Conduct (as per Annexure-I of these rules) of the registered valuers organisation of which he is a member;”

4.3 Further, Model Code of Conduct as per Annexure-I to the Valuer Rules provides as follows:

- (i) “A valuer shall maintain integrity by being honest, straightforward, and forthright in all professional relationships. (clause 2)*
- (ii) A valuer shall endeavor to ensure that he/it provides true and adequate information and shall not misinterpret any facts or situations. (clause 3)*
- (iii) A valuer shall refrain from being involved in any action that would bring disrepute to the profession. (clause 4)*
- (iv) A valuer shall appear, co-operate and be available for inspections and investigations carried out by the authority, any person authorised by the authority, the registered valuers organisation with which he/it is registered or any other statutory regulatory body. (clause 22)*
- (v) A valuer shall provide all information and records as may be required by the authority, the Tribunal, Appellate Tribunal, the registered valuers organisation with which he/it is registered, or any other statutory regulatory body. (clause 23)”*

4.4 The Authority notes that delay by Mr. Gupta in providing relevant information to the Authority occurred due to the fact, as submitted by Mr. Gupta, that he was not aware of the filing of FIR against him and he came to know about the lodging of the FIR from the RVO on 26.08.2021. The Authority accepts his submission. The Authority further notes the submission of Mr. Gupta that so far chargesheet has not been filed against him in the said FIR. Hence, no contravention could be made out. However, Mr. Gupta should be responsive in providing information/records to the Authority.

Order

5. In view of the above, the Authority, in exercise of powers conferred vide notification of Central Government no. GSR 1316(E) dated 18th October 2017 under Section 458 of the Companies Act, 2013 and in pursuance of rule 15 and rule 17 of the Companies (Registered Valuers and Valuation) Rules, 2017, disposes of the SCN without any direction and advises

Mr. Nanak Chand Gupta to be extremely careful, diligent, and responsive while performing duties as a registered valuer under the Valuer Rules.

6. A copy of this Order shall be forwarded to IOV Registered Valuers Foundation where Mr. Gupta is enrolled as a member.

7. Accordingly, the show cause notice is disposed of.

-sd-

(Dr. Mukulita Vijayawargiya)
Whole Time Member, IBBI

Dated: 08th April, 2022

Place: New Delhi