

# INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

IN THE MATTER OF APPLICATION OF ██████████ FOR GRANT OF CERTIFICATE OF REGISTRATION AS AN INSOLVENCY PROFESSIONAL UNDER REGULATION 7 OF THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY PROFESSIONALS) REGULATIONS, 2016

## ORDER

UNDER REGULATION 8(3)(b) OF THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY PROFESSIONALS) REGULATIONS, 2016

1. ██████████ (the applicant), submitted an application under regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 (**Regulations**), through the Insolvency Professional Agency of Institute of Cost Accountants of India (**IPA**), seeking certificate of registration as an Insolvency Professional (**IP**). The IPA forwarded the application to the Insolvency and Bankruptcy Board of India (**Board**) on 18<sup>th</sup> December, 2018 with a recommendation for registration of the applicant as IP.
2. While considering the aforesaid application for registration, the Board observed that the applicant has claimed a total experience of 19 plus years as under:

Sl. No.	From	To	Employment with	Experience
1	01.09.1997	30.09.2000	Vishesh Overseas	3 Years and 1 Month
2	22.03.2002	30.09.2018	NHPC Limited	16 Years and 6 Months
Total				19 Years and 7 Months

3. As per regulation 5 (c) (iii) of the Regulations, an individual is eligible for registration as an IP, if he has fifteen years of experience in management, after receiving a bachelor's degree from a university established or recognised by law. After seeking and considering the details of employment of the applicant, the Board felt that the employment from 22<sup>nd</sup> March, 2002 to 31<sup>st</sup> March, 2008 (6 years), out of total experience of 19+ years, is not experience in management and, therefore, the balance experience of 13+years falls short of the requirement of 15 years. Hence, the Board formed a *prima facie* opinion that registration ought not to be granted to the applicant as he is not having requisite experience in managerial capacity, to be registered as an IP. The Board communicated, vide an e-mail dated 13<sup>th</sup> February 2019, its *prima facie* opinion and provided an opportunity to the applicant to explain as to why his application should be accepted.

4. The applicant responded vide mail dated 28<sup>th</sup> February, 2019. He stated that he was in junior management (supervisory grade) from 22<sup>nd</sup> March, 2002 to 31<sup>st</sup> March, 2008 (6 years), and he has, therefore, more than 15 years' experience in management. He further stated that he left the service with Vishesh Overseas in September, 2000 to join the NHPC in March, 2002, indicating that he was not in employment from 1<sup>st</sup> October, 2000 to 21<sup>st</sup> March, 2002. He availed of an opportunity of personal hearing before me on 13<sup>th</sup> March, 2019 and reiterated what he had stated in his mail dated 28<sup>th</sup> February, 2019. He sought permission and time to substantiate his claim

that he had experience in management in employment from 22<sup>nd</sup> March, 2002 to 31<sup>st</sup> March, 2008, which was granted.

5. Instead of submitting the requisite documents in support of experience in management while in employment from 22<sup>nd</sup> March, 2002 to 31<sup>st</sup> March, 2008, the applicant, *vide* his e-mail dated 20<sup>th</sup> March 2019, forwarded to the Board, a copy of his letter dated 19<sup>th</sup> March, 2019 to the Board and a copy of his letter dated 18<sup>th</sup> March, 2019 addressed to the IPA. These letters claimed that the applicant had experience in management in employment with Vishesh Overseas Inc. from 1<sup>st</sup> October, 2000 to 20<sup>th</sup> March, 2002 and he inadvertently missed to state this fact in the application for registration.

6. It appeared unusual that the applicant inadvertently missed to state his experience in the application when eligibility for registration is dependent on the experience. It also appeared perplexing that he made repeated submissions that he left Vishesh Overseas in September, 2000 to join the NHPC in March, 2002, while he claims, *vide* mail dated 20<sup>th</sup> March, 2019, that he was in employment with Vishesh Overseas Inc. from 1<sup>st</sup> October, 2000 to 20<sup>th</sup> March, 2002. Interestingly, the applicant left Vishesh Overseas to join Vishesh Overseas Inc.! The testimonial indicating that the applicant worked with Vishesh Overseas Inc. did not even carry the date of its issue. Further, the experience details that satisfy eligibility norms need to be provided in the application for registration and the IPA is required to be satisfied of the same before recommending an application for registration. Accordingly, further details of his employment with Vishesh Overseas Inc. was sought through his IPA *vide* mail dated 19<sup>th</sup> April, 2019.

7. The IPA, *vide* its letter dated 6<sup>th</sup> May, 2019, stated that the applicant “*does not fulfil the eligibility criteria for enrolment as Insolvency Professional as his work experience as reflected and substantiated by the relevant documents does not in aggregate meet the stipulation of years of work experience criteria laid down in the Regulation 5 (iii)(c) of IBBI (IP) Regulations, 2016.*”

8. In view of the submission of the IPA that the applicant is not eligible for registration as an IP, nothing survives for determination. Therefore, I, in exercise of powers under regulation 8(3)(b) of the Regulations, reject the application of [REDACTED], for registration as an Insolvency Professional.

9. The efforts and resources spent on processing this application could have been avoided if the IPA was diligent in its statutory duties. Further, but for diligence of the IBBI, the applicant, who is not eligible to be registered as an IP, would have been registered. The Insolvency Professional Agency of Institute of Cost Accountants of India, which recommended registration of an ineligible individual as an Insolvency Professional, needs to review its process of scrutiny of applications to avoid recurrence.

Date: 14<sup>th</sup> May, 2019  
Place: New Delhi

(Dr. M. S. Sahoo)  
Chairperson  
Insolvency and Bankruptcy Board of India