

Disciplinary Committee
Insolvency Professional Agency of Institute of Cost Accountants of India
Constituted under Regulation 8 of Insolvency and Bankruptcy Board of India
Model Bye-Laws and Governing Board of Insolvency Professionals Agencies
Regulations 2016.

File No. DC No. IPAICMAI/DC/03/2025

ORDER

In the matter of

Manoj Kumar Agarwal.....Complainant

Versus

Mr. Vikram Singh Rathore.....Respondent
(In the matter of Shri Balaji Betel Nuts Private Limited)

Members Present:

Mr. P. N. Prasad, Independent Director, Presiding Officer
Mr. Rajvir Singh, Retired IA & AS, IBBI Nominee
Dr. Divya Sharma, Independent Director, Member
Mr. G.S. Narasimha Prasad, Managing Director, Ex-Officio Member:

The present matter has been referred to the Disciplinary Committee of Insolvency Professional Agency of the Institute of Cost Accountants of India by the 'Grievance Redressal Committee,' in its 28th meeting held on 2nd June 2023.

The Disciplinary Committee upon consideration of material on record, in its 23rd meeting held on 6th February 2024, decided to issue a show cause notice to Mr. Vikram Singh Rathore dated 23rd February 2024. In response to the said show cause notice the respondent has submitted a reply dated 15th March 2024 vide email dated 17th March 2024. Further, in terms of the Disciplinary Policy he has also been afforded an opportunity of personal hearing before the the Committee on 26th November 2024. The Respondent during the course of personal hearing has made his submissions and largely reiterated the submissions made by him in writing.

The Committee in its 30th meeting held on 3rd March 2025 considered the matter basis the material on record and the submissions made by the parties during the course of personal hearing, in relation to the reference made by the Grievance Redressal Committee on a complaint filed against Mr. Vikram Singh Rathore with respect to Shri Balaji Betel Nuts Private Limited.

The Committee noted that the allegation(s) against the Respondent are:

- Whether the due process was followed for the sale of the Betel Nuts?
- Why did the Insolvency Professional did not appoint the auditor(s) despite several red flags?

- Whether Shri Ghata Mehdipur Balaji Betel Nut LLP and M/s Halappa Trading Company are related parties of the Corporate Debtor?
- Whether the complainant is a related party to the Corporate Debtor?

The allegation(s) wise findings of the Committee are as follows:

- The Committee based on the documents placed before it and submissions, was of the view that no transparent process was followed for the selection of the buyers of the Betel Nuts. The Respondent did not go into the question i.e. whether the due process was followed by the Corporate Debtor during the sale of Betel Nuts but apparently went by the award in the Arbitration. It was noted that the said Award was accepted at its face without going into other details, which clearly indicates that there has been a gross violation on the part of the respondent. Therefore, the committee was of the view that this amounts to lapse on the part of the respondent.
- Further, as far as non-appointment of Forensic Auditor is concerned, the Committee was of the view that the respondent, despite red flag(s) which warranted the audit, did not appoint any forensic auditor(s). The respondent accepted the facts that there was an arbitration Award, and the buyer was the organization which indeed was founded by the ex-directors of the CD. All these were questionable circumstances, and he should have gone more deep rather than accepting it at face value. The Committee though felt that that while it is the discretion of the RP to appoint the forensic auditor(s) or not, but in the present case, there were circumstances and enough material evidence which warranted appointment of a forensic auditor as in a normal prudence. Therefore, the Committee was of view that the respondent has failed to appoint any forensic auditor(s) despite several red flags stands proved.
- The Committee deliberated on the issue concerning the non-disclosure of *Shri Ghata Mehdipur Balaji Betel Nut LLP and M/s Halappa Trading Company* as related parties in the List of Creditors uploaded on the website of MCA by the respondent. Upon detailed examination, the Committee observed that the directors of the Corporate Debtor and those of the aforementioned entities were either common director prior to the commencement of the Corporate Insolvency Resolution Process or were ex-directors of the CD. The Committee further noted that the relevant provisions under the IBC and corresponding rules clearly delineate the criteria for determining related parties, and it is not appropriate to classify operational creditors as related parties solely on the basis of transactions with entities that have erstwhile or common directorship with the CD, absent satisfaction of the statutory criteria. Accordingly, the Committee concluded that the allegation of non-classification of *Shri Ghata Mehdipur Balaji Betel Nut LLP and M/s Halappa Trading Company* as related parties under Section 5(24) read with Section 5(2) of the Insolvency and Bankruptcy Code, 2016, is not proved against the Resopndent.
- The Committee noted that the complainant being the financial creditor resigned as director before the commencement of the CIRP. It was also noted that since the complainant is the largest shareholder of the Corporate Debtor, the complainant falls within the purview of the definition of “related party,” with respect to the CD as prescribed under section 5(24) of the Insolvency and Bankruptcy Code, 2016.

Based on the above, the Committee referred to Annexure-A of the Disciplinary Policy of Insolvency Professional Agency of Institute of Cost Accountants of India to determine the quantum of penalty to be imposed on the respondent.

The Committee thereafter decided that as per Clause 2(b) under Part-III (Procedure Upon Initiation of Disciplinary Proceedings) of the Disciplinary Policy of IPA-ICMAI, decided to impose the following punishment:

As per Clause 2(b)(b) i.e. Imposition of penalty as per Annexure-A: The Committee on overall consideration of the material has decided that a cumulative penalty of Rupees Two Lakh (Rs. 2,00,000/-) **. The respondent is directed to deposit the penalty imposed within one month from the date of order

- **As per Clause 2(b)(c) i.e. suspension for a period as determined by the committee:** The Authorization of Assignment of the respondent shall be suspended for a period of one year from the date of the issuance of the order or till the date of full payment of the penalty-imposed. Therefore, the matter is disposed of with
 - i. a monetary penalty of Rs. 2,00,000/- to be submitted within a period of 1 month from the date of order, and
 - ii. suspension of AFA for a period of 1 year from date of order and shall continue to be in effect till the date of full payment of the monetary penalty.

Date: 25/04/2025

Place: New Delhi

Certified True Copy

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Mr. P.N. Prasad (Chairperson)

Mr. Rajvir Singh (Member)

Dr. Divya Sharma (Member)

Copy to:

Insolvency and Bankruptcy Board of India

Insolvency Professional Agency of Institute of Cost Accountants of India-Members Record