

**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 Bord of Insolvency Professionals Agencies)**  
**Regulations 2016.]**

File No. DC No.- IPAICAI/DC/12/2020/21

**ORDER**

**In the matter of**

**Paisalo Digital Limited ..... Complainant**

**against**

**Mr. Manoj Kulshrestha, RP**

**(in the matter of Soni Realtors Private Limited.) ..... Respondent**

**MEMBERS PRESENT:**

<b>Presiding Officer,</b>	<b>: Mr. P.N. Prasad</b>
<b>(IBBI Nominee)</b>	<b>: Dr. S.P. Narang</b>
<b>Member</b>	<b>: Mr. Rakesh Singh</b>
<b>Member</b>	<b>: Mr. Rajender Bose</b>
<b>Member</b>	<b>: Mr. Susanta Kumar Sahu</b>

A complaint was received against Resolution Professional Mr. Manoj Kulshrestha a member of Insolvency Professional Agency of Institute of Cost Accountants of India ("IPA ICAI") and is the Resolution Professional ("RP") appointed in the case of Soni Realtors Private Limited ("Corporate Debtor" or "CD"). Paisalo Digital Limited is one of the Financial Creditor ("FC"). The Complainant filed the complaint with IBBI which was in turn forwarded to the Agency vide IBBI letter dated 13<sup>th</sup> December, 2018.

Pursuant thereto, the said complaint was taken up for consideration in the Grievance Redressal Committee meeting(s) held on 5<sup>th</sup> February 2019 ,11<sup>th</sup> February 2019 ,and 22<sup>nd</sup> April , 2019 and thereafter in the meeting of the Monitoring committee meeting held on 15<sup>th</sup> May 2019 wherein personal hearing was also granted to the complainant and the RP where after the monitoring committee recommended the matter for further consideration of the Disciplinary Committee

*“Considering the facts and grounds of the complaint and non-transparency with regard to the appointment of the professionals by Mr. Manoj Kulshrestha under Section 25(2)(d) of the Insolvency and Bankruptcy Code, 2016,”*

Accordingly, the complaint was placed before the Disciplinary Committee for its consideration in its meeting held on 27<sup>th</sup> May, 2019 and again on May 29<sup>th</sup>, 2019. The Disciplinary Committee on careful consideration of the matter has decided to drop the proceedings. The relevant para of the order dated 30<sup>th</sup> August 2019 passed by the Disciplinary Committee read as under;

*“After perusal of the information made available and documents on record, the committee in its meeting held on 29<sup>th</sup> August 2020 was of unanimous opinion that no case is made out to proceed further in the matter and decided to accordingly drop the proceedings. The order issued by disciplinary committee was sent to IBBI and both parties.”*

Thereafter, the complainant has filed an appeal against the order dated 30<sup>th</sup> August 2019 passed by the Disciplinary Committee on 21<sup>st</sup> October 2019. The Appellate Panel vide its order dated 10 February 2020 disposed of the said appeal with the following directions;

*“On perusal of the documents and information on record and after discussions it is noted that Disciplinary Committee has not recorded any reasons in its order holding the respondent not guilty in the case. In view of the aforesaid, we hereby remand the matter back to the Disciplinary Committee to pass reasoned and speaking order.”*

In terms of the directions of the Appellate Panel contained in its order dated 10 February 2020 the Disciplinary Committee taken up the matter in its meeting(s) held on 27<sup>th</sup> July 2020, 2<sup>nd</sup> September 2020, 20<sup>th</sup> September 2020, 4<sup>th</sup> October 2020, 18<sup>th</sup> October 2020, 1<sup>st</sup> December 2020 and on 23 December 2020. That the Committee also called in the complainant and the Resolution Professional for affording them an opportunity of personal hearing to present their case.

The Committee given thoughtful consideration to the submissions of the parties and perused the documents available on record. Upon consideration the Committee is of the following views which are given against the respective allegation made by the Complainant ;

### **Allegation No. 1. - Non providing of data by Resolution Professional**

Complainant sent several emails to RP asking for valuer report, forensic report, credential of potential resolution applicant, Auditor Report and Financial Statements of M/s. Soni Realtors Pvt. Ltd. and Status Report submitted to NCLT which according to the complainant was not provided to him. Secondly during inspection Complainant observed that claim forms filed by claimants are missing.

### **Reply of the Respondent**

All information was provided to all the members who have requested for information,

including Paisalo Digital Limited. However, certain very critical and confidential documents like forensic report and valuation report which includes liquidation value were not supposed to be shared. The latest list of creditors as updated till the point of request made by Paisalo Digital Limited was provided to them. Eligibility criteria was fixed in the COC meeting where representative of Paisalo Digital Limited was present and accordingly only one resolution applicant fulfilled eligibility criteria. At the time of request made by them an application was filed u/s 19(2) of the Code which was well informed the COC where representative of Paisalo Digital Limited were present. Information memorandum provided to COC members including Paisalo Digital Limited was provided wherein complete balance sheets including auditor's report was there till the financial yearending 2014.

Thereafter RP put up the matter of audit of accounts of the company for the years pending for audit but due to non-availability of requisite documents like books, bills, vouchers etc. not available, provisional balance sheets 2014 onwards were provided for which audit could not be conducted. COC has approved the appointment of a legal firm for claim verification/legal opinion. Accordingly, a law firm namely '**Law Professionals**' was appointed to take the opinion. The claims have been properly verified and treated accordingly.

### **Analysis**

**Non providing of data by Resolution Professional** - Valuation Report: Regulation 35(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 provides that *"after the receipt of resolution plan in accordance with the Code and these regulations, the resolution professional shall provide the fair value and liquidation value to every member of the committee in electronic form, on receiving an undertaking from the member to the effect that such member shall maintain confidentiality of the fair value and the liquidation value and shall not use such values to cause an undue gain or undue loss to itself or any other person and comply with the requirements under sub-section (2) of Section 29."*

The complainant did not furnish undertaking as required under Section 29 (2) while seeking copy of the valuation Report. Accordingly, RP was not obliged to furnish valuation report to the complainant.

Forensic Report: Section 21(9) of the Code provides that "the CoC shall have the right to require the RP to furnish any financial information in relation to the corporate debtor at any time during the corporate insolvency resolution process."

Further Section 21(10) of the Code provides that "the RP shall make available any financial information so required by the committee of creditors within a period of seven days of such requisition."

Forensic audit report is not the financial information as contemplate under Section 21(9) However, The complainant did not furnish undertaking as required under Section 29 (2) while seeking copy of the valuation Report. Accordingly, RP was not obliged to furnish Forensic Audit report to the complainant.

List of Creditors: Regulation 13(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 provides that “ list of creditors shall be available for inspection by the persons who submitted proof of claims, by members, partners, directors and guarantors of the corporate debtor.”

List of claims prepared by RP showed different details in respect of some of the claimants in terms of name, e-mail and mobile no. as the claims list was being progressively compiled based on Verification of case files and the list submitted to department of town country planning.

Any application/status report moved to NCLT: There are no provisions under the Code which provides that members of CoC can ask for application/status report moved by RP to NCLT.

However, if any member of CoC is party to any matter pursuant to which any application has been filed before NCLT, then copy of application will automatically be provided to the member to the party.

***In view of the facts mentioned herein above and duly verified from the various relevant documents on record the Committee is of the view that there is no merit in the allegation.***

#### **Allegation No.2 - Appointment of forensic audit without informing the CoC**

Profile of legal firm appointed for verification of claims or forensic auditor was not presented Before Committee of Creditors and they were appointed without informing CoC.

#### **Reply of Respondent**

RP has taken approval of appointing the legal firm, authorized representatives for the class of creditors as discussed in the CoC meetings with budget approval of all including Forensic Auditor and these appointments have been done after scrutinizing their credentials.

#### **Analysis**

Appointment of the Forensic Auditor: Budget for appointment of Forensic Auditor was approved in 4th CoC Meeting dated 31st July, 2018. ***Hence Respondent had duly informed the COC regarding appointment of the forensic Auditor and hence there is no merit in the allegation.***

#### **Allegation No.3 - Arbitrary allotment of plots**

A list of plot owners duly certified by CA has been filed by the Corporate Debtor with the Department of Town and Country Planning (DTCP) in 2017, but despite of this Respondent relied on list provided by Corporate Debtor. On inspection by Complainant it was observed that fictitious claims have been accepted and many claims were not submitted in the prescribed format.

### **Reply of the Respondent**

The Respondent was the only receiver/verifier of the claims and based on the claims and allotment files provided by Promoter and list sent to **DTCP**, the claims were verified and finalized. Multiple allotments of plots were done by the promoters/directors which has been reported to NCLT and matter is sub judice before the same.

### **Analysis**

List of claims prepared by Respondent showed different details in respect of some of the claimants in terms of name, e-mail and mobile no. as the claims list was being progressively compiled based on Verification of case files and the list submitted to department of town country planning.

***Hence there is no merit in the allegations.***

### **Allegation No.4 - Appointment of Authorized Representative for other financial creditors**

Profile of Authorized Representative (Mr. Vishnu Dutt) to be appointed was not presented before Committee of Creditors and they were appointed without informing CoC

### **Reply of the Respondent**

COC approved the appointment of two Authorized Representatives (AR) one for plot buyers and one for other financial creditors. The Respondent had arranged voting for both the class and submitted the results to Adjudicating Authority (AA) for final approval of appointment.

### **Analysis**

**Appointment of Authorized Representative for other financial creditors -** As observed from the verification of records the appointment of two authorized representatives, 1 for plot buyers and 1 for other financial creditors was duly approved by COC in its meeting held on (4<sup>th</sup> Meeting of COC).

Further, Respondent had arranged for voting both the classes of AR and also submitted the results of voting to the adjudicating authority for final approval. Further Mr. Samresh Agrawal also voted in favor of Authorized Representative Mr. Vishnu Dutt on behalf of Paisalo Digital Limited. Hence the appointment of AR was as per the procedure laid down in the code / regulations and was in full knowledge of COC and adjudicating authority. ***Therefore, there is no merit in the allegation.***

### **Allegation No5 - Submission of Resolution Plan by M/s. Srijan Infra**

Resolution Applicant (M/s. Srijan Infra) is ineligible to act as Resolution Applicant on ground of non- fulfillment of eligibility criteria's as provided under Expression of Interest's, Resolution Applicant is a newly created firm and a loss making body and

also hand in glove with the Corporate Debtor. Despite this RP choose to overlook the same.

### **Reply of the Respondent**

Upon issuance of Expression of Interest, five parties had shown interest but there was only one party M/S Srijan Infra LLP who filed its credentials and fulfilled the eligibility criteria as approved by COC. The question of rejecting the resolution applicant did not arise if it fulfilled the criteria as fixed by COC and it had filed the declaration that it was eligible as per the eligibility criteria.

### **Analysis**

**Submission of Resolution Plan by M/s. Srijan Infra** - It has been verified that five parties had shown interest but there was only one party M/S Srijan Infra LLP who filed its credentials and fulfilled the eligibility criteria as approved by COC. Further the resolution applicant had filed the declaration that it was eligible as per the eligibility criteria as fixed by COC. Based on the information and documents on record it appears that due process for inviting invitation for expression of interest was followed by RP and M/s. Srijan Infra LLP duly met the eligibility criteria which was also accepted and confirmed by COC. *Therefore, the allegation lacks merit.*

### **Conclusion**

In terms of the discussion herein above, the Committee is of the considered view that the allegations made by the Complainant against the Respondent has not been proved and accordingly, the matter stands disposed of.

Date : 15.01.2021

Place : New Delhi

S/d

**Certified True Copy**

**Mr. P.N. Prasad (Chairperson)**  
**Dr. S.P. Narang (IBBI Nominee)**  
**Mr. Rakesh Singh (Member)**  
**Mr. Rajendra Bose (Member)**  
**Mr. Susanta Kumar Sahu (Member)**

Copy To:

Insolvency Bankruptcy Board of India

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