

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./18/2023

5th June 2023

ORDER

This Order disposes the Show Cause Notice (SCN) No. COMP-11012/82/2022-IBBI/293/8857, dated 24.01.2023 issued to Mr. Venkata Krishna Srinivasa Raju Penmetsa under rule 17 read with rule 15 of the Companies (Registered Valuers and Valuation) Rules, 2017 (Valuation Rules). The Insolvency and Bankruptcy Board of India (IBBI/Board) has been delegated by the Central Government to perform the functions of the Authority under the Valuation Rules. Mr. Venkata Krishna Srinivasa Raju Penmetsa is registered with IBBI as a valuer in the asset class of Land and Building (L&B), with the registration number IBBI/RV/04/2020/13012 on 31.03.2020.

1. Issuance of Show Cause Notice (SCN) and hearing before the Authority.

- 1.1 Rule 17(1) of the Valuation Rules provides that based on findings of an inspection, if the authorised officer is of the *prima facie* opinion that sufficient cause exists to cancel or suspend the registration of a valuer, it shall issue a SCN to the valuer.
- 1.2 In this regard, an Inspecting Authority (IA) was appointed to conduct inspection of the fact that while applying for the registration as valuer in IBBI, Mr. Penmetsa had suppressed the facts about the FIR registered on 23.03.2018 against him.
- 1.3 The IA sent Draft Inspection Report to Mr. Penmetsa on 20.09.2022 for submission of comments within 15 days. However, no reply was received. A reminder was sent on 11.11.2022 for submission of response. Still no response is received by the IA from him. Subsequently, the IA submitted its report on 21.12.2022.
- 1.4 Based on the findings of the inspection, a *prima facie* opinion was formed that sufficient cause exists to consider actions under sub-rule (5) of rule 17 of the Valuation Rules and accordingly SCN dated 24.01.2023 was issued to Mr. Penmetsa for contravention of the rule 3(1)(k), rule 7 (a), (b) and (g) Valuation Rules and clauses 2 and 3 of the Model Code of Conduct for Registered Valuers stipulates under Annexure – I of the Rules. The written reply was sought from Mr. Penmetsa which was not received from him.
- 1.5 The matter was referred to this Authority for disposal of the SCN. Mr. Penmetsa was given opportunity of personal hearing on 10.04.2023. On the day of hearing, ie, 10.04.2023 he requested 15 days' time through email for availing personal hearing. Subsequently, the

personal hearing was fixed on 04.05.2023. Mr. Penmetsa did not attend the personal hearing on 04.05.2023 for which the link sent through email dated 03.05.2023. Mr. Penmetsa *vide* email dated 04.05.2023 requested further time for personal hearing due to non-availability of his advocate. Mr. Penmetsa was granted another opportunity of hearing on 17.05.2023 where he appeared along with his advocate Mrs. Almas Mohammed and requested final opportunity to reply the SCN within two weeks. Mr. Penmetsa finally submitted his reply to the SCN on 31.05.2023.

2. Examination of contraventions alleged in the SCN

- 2.1 The SCN noted that in spite of the fact that Mr. Penmetsa was named as an accused by CBI in another case i.e (chargesheet filed by it on 17.06.2016 in FIR No. RC.16(A)/2015/CBI/VSKP dated 22.12.2015), and this fact was never brought before the Authority and falsely claimed that there is no other FIR or chargesheet is pending against him. This conduct of Mr. Penmetsa is unbecoming for continuation of his certificate of registration.
- 2.2 Detailing the background, it is elaborated in the SCN that Mr. Penmetsa in his email communication dated 28.08.2022 has submitted that he had applied for the registration of RV on 16.03.2020, whereas he came to know about the Central Bureau of Investigation (CBI) case through telephonic information from CBI, ACB, Hyderabad in the first week of June, 2020. He also stated that he had not received any written communication regarding this case either from CBI or from the complainant.
- 2.3 The SCN further stated that during the conduct of inspection, IA has taken cognizance of a copy of prosecution complaint filed by Enforcement Directorate (ED) against M/s PBR Poultry Tech & other, wherein, he was arrayed as accused-9. Hon'ble MSJ Cum Special PMLA Court, Vishakhapatnam has taken cognizance of the prosecution complaint and also issued summons to him. While going through the above prosecution complaint, it has been observed that the above complaint filed by ED is based on the FIR No. RC16(A)/2015 registered by the CBI, ACB, Visakhapatnam on 22.12.2015 against M/s PBR Poultry Tech. After due investigation, CBI had filed chargesheet dated 17.06.2016 before Hon'ble Principal Special Judge of CBI Cases Visakhapatnam against some accused including Mr. Penmetsa under section 120-B r/w 420, 468, 471, 477-A of Indian Penal Code, 1860 and section 1392) r/w 13(d) of Prevention of Corruption Act.
- 2.4 This according to the SCN is contravention of the rule 3(1)(k), rule 7 (a), (b) and (g) Valuation Rules and clauses 2 and 3 of the Model Code of Conduct for Registered Valuers stipulates under Annexure – I of the Valuation Rules. The SCN further stated that above contraventions are serious in nature and allegedly making Mr. Penmetsa a person not “fit and proper” to continue as a registered valuer and has led to breach of his conditions of registration.

Submissions of the Mr. Venkata Krishna Srinivasa Raju.

- 2.5 Mr. Penmetsa submitted that he did not have any information with respect to the FIR No. RC 06(A)/2018/CBI/HYD dated 22.03.2018. On 16.03.2020 when he submitted his RV application, he also submitted a notarized affidavit before the authority.
- 2.6 He submitted that another FIR was pending vide no. FIR RC16(A)/2015 by the CBI, ACB, Visakhapatnam dated 22.12.2015 wherein he was arrayed as accused and subsequently the charge sheet was filed on dated 19.12.2016 is true as per record of the Hon'ble Principal Special Judge of CBI Cases Visakhapatnam.
- 2.7 He submitted that during the year 2015, he received a call from the investigating agency and he explained his stand before them and they stated that his name will be removed from the complaint as there is no prima facie case against him. But for the best reasons known to the investigating agency, his name was included in the chargesheet and he came to know about it very recently when he received the SCN from this Authority.
- 2.8 He submitted that the chargesheet filed by the IO clearly goes to show that his involvement is only to extent of giving valuation of the properties. He further submitted that his enquiry with respect to the above chargesheet revealed that the case after filing the chargesheet was transferred to Vijayawada from Visakhapatnam and since then the same is pending and he did not have any information with respect to the pendency of the same. He submitted that he is intending to challenge the said chargesheet by filing the quash petition before the Hon'ble High Court of Andhra Pradesh as the same is without any *prima facie* case against him.
- 2.9 He submitted that he has submitted his RV application on dated 16.03.2020 and his representation before the authority is under the *bona fide* impression of removal of his name from the complaint as stated by the investigating authority during the enquiry, hence he did not state the said issue in his application. The non-mentioning the same in the application is only due to above mentioned reason and requested the authority to consider the same in lenient view and I am ready to abide by the conditions if any imposed to continue as Registered valuer.

Findings of the Authority

- 2.10 The Form-A under Anenxure-II of the Valuation Rules provides the format for application for registration as a valuer by an individual. Under clause E.2. it specifically asks regarding any pending criminal proceedings against the registered valuer. In the application submitted by Mr. Penmetsa on 16.03.2020, he informed the Authority that same in negative and was granted registration in the asset class of Land and Buildings on 31.03.2020. The facts on records, which came to the knowledge to Authority subsequently however, states otherwise. There are two FIRs registered against Mr. Penmetsa and chargesheet has been filed in one of the case

- 2.11 Further, ED has filed Prosecution Complaint against M/s PBR Poultry Tech & other, in SC 72/2022 wherein, Shri Venkata Krishna Srinivasa Raju Penmetsa (the then panel valuer of Indian Overseas Bank, Vishakhapatnam) is arrayed as accused no. 6. The above complaint filed by ED is based on the FIR No. RC16(A)/2015 registered by the CBI, ACB, Visakhapatnam on 22.12.2015 against M/s PBR Poultry Tech and chargesheet was filed against him on 17.06.2016 in the same. It was also informed by ED that Hon'ble MSJ cum Special PMLA Court, Vishakhapatnam has taken cognizance of the Prosecution Complaint on 12.05.2022 and also issued summons to the accused. The charges against the accused including Mr. Penmetsa are under section 120-B read with 420, 468, 471, 477-A of Indian Penal Code, 1860 and section 1392) r/w 13(d) of Prevention of Corruption Act. While Mr. Penmetsa has submitted on affidavit dated 08.09.2022 that no FIR or chargesheet is pending against him. The said affidavit does not state the correct facts and in contrary, there is material suppression of facts. Had Mr. Pnemetsa disclosed the correct facts in the affidavit, while submitting application to IBBI for registration as RV, registration would not have been granted by IBBI.

3. Order

- 3.1 In view of the foregoing discussions, this Authority finds that suppression of facts particularly in relation to the information submitted which has direct bearing on the registration process is a grave act and akin to manipulating the decision making based on false information. Further, if appropriate action is not taken in the instant case, it will give wrong message to other stakeholders to get the registration on the basis furnishing wrong information; keeping the matter resting till somehow the Authority comes to know, if at all, about the correct facts.
- 3.2 It is clear case of contravention of the rule 3(1)(k), rule 7 (a), (b) and (g) Valuation Rules and clauses 2 and 3 of the Model Code of Conduct for Registered Valuers stipulates under Annexure – I of the Valuation Rules. The pendency of criminal proceedings against Mr. Penemtsa adversely impacts his reputation and make him a person who is not 'fit and proper' to be registered as a registered valuer. More importantly, the suppression of facts by Mr. Penmetsa which are already on record is a serious breach of code of conduct applicable on a registered valuer where he is required to be honest and provide true information to the Authority.
- 3.3 In view of the above, the Authority, in exercise of powers conferred vide notification of Central Government no. GSR 1316(E) dated 18.10.2017 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, hereby cancels the registration of Mr. Venkata Krishna Srinivasa Raju Penmetsa as Registered Valuer having Registration No. IBBI/RV/04/2020/13012.

- 3.4 In accordance with provisions of Rule 17(8) of the Valuation Rules, the order shall come into force after thirty days have elapsed from the issue of the order..
- 3.5 A copy of this order shall be forwarded to IIV India registered Valuers Foundation where Mr. Venkata Krishna Srinivasa Raju Penmetsa is enrolled as a member.
- 3.6 Accordingly, the show cause notice is disposed of.

Dated: 5th June 2023
Place: New Delhi

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(Sudhaker Shukla)
Whole Time Member, IBBI