

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.(A)/01/2023

31st May 2023

ORDER

This Order disposes the appeal preferred by Yardi Prabhu Consultants & Valuers Pvt. Ltd. against the Order dated 06th April 2022 which disposed the Show Cause Notice dated 04th May 2021, issued to the Registered Valuer entity Yardi Prabhu Consultants & Valuers Pvt. Ltd. The Insolvency and Bankruptcy Board of India (IBBI) has been delegated by the Central Government to perform the functions of the Authority under the Valuation Rules. Yardi Prabhu Consultants & Valuers Pvt. Ltd. is registered with IBBI as a valuer with the registration number IBBI/RV-E/04/2020/113 on 21st January 2020.

1. Brief Background

- 1.1. The IBBI, in accordance with rule 15 read with rule 17 of the Valuation Rules, had suspended the registration of Yardi Prabhu Consultants & Valuers Pvt. Ltd. vide its Order dated 06th April 2022 (hereinafter referred as “Order”). The said Order disposed the SCN dated 04th May 2021, issued to Yardi Prabhu Consultants & Valuers Pvt. Ltd for contravention of the provisions of the Rules pertaining to eligibility of a company to be a registered valuer under the Valuation Rules.
- 1.2. In terms of rule 17(9) of the Valuation Rules, the Yardi Prabhu Consultants & Valuers Pvt. Ltd has now preferred an appeal against the Order. It availed the opportunity of personal hearing through a legal firm namely Gravitas Legal on 24th May 2023.

2. IBBI Order dated 06th April 2022

- 2.1. The IBBI issued SCN dated 04th May 2021 to RV-E with the allegation that the filing of chargesheet by the Economic Offences Wing, Mumbai, under serious offences (including *inter alia* sections 201, 201, 406, 420, 465, 467, 468, 471, 477A read with section 120B of the Indian Penal Code and sections 46(1) and 47A of the Banking Regulation Act, 1949) against one of the directors of the RV-E, may make the director not ‘fit and proper’ under the Valuation Rules and therefore the RV-E shall also be violating the condition of registration of an entity as valuer in terms of rule 7(a) read with rule 3(2)(c) of the Valuation Rules which provides that all the directors of the company should be ‘fit and proper’ person.
- 2.2. The IBBI vide its Order dated 06th April 2022, examined the contraventions made in the SCN and the written and oral submissions presented on behalf of the RV-E. The Order

noted that vide a separate Order dated 28th February 2022, the registration of the above-said director has been suspended till he is exonerated of the charges framed against him. The Order therefore concluded that in such a situation where the registration of a registered valuer entity is suspended, the RV-E also becomes ineligible to continue as a registered valuer, in terms of rule 3(2)(c) read with rule 7(a). Accordingly, the registration of RV-E was suspended till it takes corrective measures to meet the eligibility criteria as envisaged under rule 3(2)(c) of the Valuation Rules.

3. Appeal by the RV

- 3.1. The RV in his appeal has apprised that the concerned director had preferred a Writ Petition (Civil W.P. No. 10440 of 2022) before the Hon'ble Bombay High Court challenging the suspension Order dated 28 February 2022. The Hon'ble Bombay High Court, vide an order dated 12th January 2023 admitted the said petition and granted interim relief thereby staying the effect and operation of Order dated 28th February 2022. Further, pursuant to the above-referred High Court Order, IBBI has restored the registration of the director.

4. Order

- 4.1. In view of the foregoing, this Authority notes that the registration of RV-E was suspended on the ground that one of its directors was not 'fit and proper' in terms of rule 3(1)(k) of the Valuation Rules. The decision as to the director not being 'fit and proper' was taken by the Authority vide a separate Order dated 28th February 2022. However, at present, the subject matter is already under consideration of Hon'ble High Court of Bombay, where interim relief has been granted to the director, by staying the operation of IBBI Order dated 28th February 2022 and subsequently the suspension of the aforesaid director has been restored by IBBI.
- 4.2. Therefore, since the subject matter is *sub-judice* with Hon'ble High Court of Bombay, it will not be appropriate to go into the merits of the suspension order of the director who is also a registered valuer or the RV-E. Accordingly, in light of the Hon'ble High Court of Bombay Order dated 12th January 2023, this Authority hereby suspends the operation of IBBI's Order dated 06th April 2022 subject to the decision of Hon'ble High Court of Bombay in the Civil Writ Petition No. 10440 of 2022. The registration details of the RV-E shall be restored in the records of IBBI.
- 4.3. The Appeal is hereby disposed of.

Sd/-

Dated: 31st May 2023
Place: New Delhi

(Ravi Mital)
Chairperson, IBBI