

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./15/2023

17th May 2023

ORDER

This Order disposes the Show Cause Notice (SCN) No. RV-13012/2/2022-IBBI/294/94, dated 27th January 2023 issued to Mr. Motappa Thimmarayaswamy 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. Motappa Thimmarayaswamy is registered with IBBI as a valuer of Plant and Machinery Assets (P&M), with the registration number IBBI/RV/04/2019/12597 on 11th August 2019.

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 valuation report submitted by Mr. Motappa Thimmarayaswamy in the Corporate Insolvency Resolution Process (CIRP) of V3 Engineers Pvt Limited (Corporate Debtor/CD) to examine compliance with section 247 of the Companies Act, 2013 read with relevant provisions of the Valuation Rules.
- 1.3 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 27th January 2023 was issued to RV for contravention of the rules 8(3)(g),(h) and (j) of the Valuation Rules, 2017. The written reply was sought from the RV and an opportunity of personal hearing was accorded to him. Mr. Motappa Thimmarayaswamy responded to the SCN on 10th February 2023, where he denied any deviation from established practices and standards and the contravention alleged in the SCN. The matter was referred to this Authority for disposal of the SCN. Mr. Motappa Thimmarayaswamy availed the opportunity of personal hearing on 15th May 2023.

2. Examination of contraventions alleged in the SCN

The contravention alleged in the SCN, the response of RV and the findings of the Authority are summarised as follows:

2.1 Issues regarding Methodology adopted for Valuation.

- 2.1.1 It is mentioned in the SCN that the valuation report of the RV provides that-

“the valuation of plant & machinery has been estimated by using DRC method under cost approach of valuation. DRC is derived from the GCRC which is reduced by considering depreciation”.

It is further reiterated in the valuation report that –

“DRC/Fair Value of the assets has been appropriately adjusted (discounted) to arrive at Liquidation Value (orderly liquidation value in this case) of the assets after deducting suitable costs of disposal. Various factors such as type of industry present economic outlook of the industry (micro and macro both) change in business dynamic, urgency of situation etc. and our professional judgment has been considered to estimate such discount.”

- 2.1.2 The SCN however alleges that there appears to be no convergence between methodology indicated by the RV in his valuation report and the final valuation figures estimated by him. The report claims to have taken into account, various factors such as ‘price from market/manufacturer’, ‘price indices’, ‘age’, ‘balance life’, ‘salvage’, ‘depreciation’, ‘obsolescence’ ‘cost to cure’ etc. However, the SCN notes that it appears that points that are conceptually important in the entire exercise such as ‘base value’ ‘use of indices’ ‘rate of depreciation due to wear & tear’, ‘rate at which obsolescence factor is accounted for’ etc. are missing in the calculation/estimation part. This gives the impression that the figures estimated by the RV are more arbitrary in nature instead of being based on the factors indicated by him in Part 3 of the valuation report (basis and methodology of Valuation). **This is allegedly in violation of Rule 8(3)(g), (h) and (j) of the Valuation Rules, 2017.**

2.2 Submission of the RV

- 2.2.1 The RV in his response has submitted that the convergence as stated in the SCN can be seen in the computation sheet. The information stated in the valuation report is applicable for both the calculations under the reproduction and market method. In reproduction method it is required to depreciate the value of new item to make to current condition of the equipment. Cost approach value is not the value reported in the final report even though it was worked out.
- 2.2.2 The RV has submitted that both the computations were enclosed in reply to draft inspection report to the IA. Since market is always preferred over passive computation of value by reproduction method based on price indices, the market method was preferred. The RV has also stated that the factors mentioned in the report was included in the computation made in the reproduction method. Price from manufacturer, price indices, age, balance life, salvage, depreciation, obsolescence, cost to cure are factors separately shown in computations. In the market determined approach, the price of original equipment does not arise and price of similar equipment with similar manufacturing age is adopted. To make it identical, cost to cure economical technological and functional adjustments are made All the calculations are made based on required parameters as without required parameters it is not possible to compute at all.

2.3 Findings of the Authority

- 2.3.1 The RV has placed on record the computation sheet utilised by him in preparing the valuation report. On perusal of the computation sheet, it can be presumed that the RV has considered certain factors such as year of purchase, source of the market price considered, adjustment value for year of make, etc. to arrive at the fair value of the assets. However, even the computation sheet does not clarify the basis of taking discounting factor of 40 per cent for the liquidation value of these assets. It is well understood that the valuer has the liberty to exercise his professional judgment while estimating the value, however, the assumptions with respect to the discounting factors must rest on some logical basis which should be recorded in the valuation report for consideration of its stakeholders.

3. Order

- 3.1 The valuation report must be transparent and complete in itself such that there is no iota of doubt in the minds of stakeholders while referring a valuation report. In view of the foregoing, after considering the allegations made in the SCN, the detailed reply provided by the RV and the materials available on record, the Authority therefore disposes of this SCN with a word of caution to the RV for being careful and diligent, in future, in preparation of the valuation report in such a manner that all the material information be provided in the valuation report itself to make the document complete in itself, leaving nothing at the discretion or judgement or interpretation of the stakeholders who intend to use it during the process.
- 3.2 In terms of the directions in para 3.1 above, this Order shall come into force with immediate effect.
- 3.3 A copy of this order shall be forwarded to IIV India Registered Valuers Foundation where Mr. Motappa Thimmarayaswamy is enrolled as a member.
- 3.4 Accordingly, the show cause notice is disposed of.

Dated: 17th May 2023
Place: New Delhi

Sd/-
(Sudhaker Shukla)
Whole Time Member, IBBI