

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./26/2025

26 March 2025

ORDER

This Order disposes the Show Cause Notice (SCN) No. RV-13012/1/2023-IBBI/375/709, dated 20th September 2024 issued to Mr. Vipin Kumar (RV) under rule 17 read with rule 15 of the Companies (Registered Valuers and Valuation) Rules, 2017 (Valuation Rules). Mr. Vipin Kumar is registered with IBBI as a valuer of Land and Building (L&B) with the registration number IBBI/RV/06/2019/11215.

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 Mr. Vipin Kumar in respect of the valuation report submitted by him in the Corporate Insolvency Resolution Process (CIRP) of M/s. Base Corporation Limited (Corporate Debtor/CD).
- 1.3 Based on the findings in the inspection report, 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 20th September 2024 was issued to Mr. Vipin Kumar alleging contravention of the rules 8(3)(g) and (j) of the Valuation Rules, 2017. Mr. Vipin Kumar submitted reply to the SCN on 14th October 2024. The matter was referred to this Authority for disposal of the SCN where Mr. Vipin Kumar availed the opportunity of personal hearing through virtual mode on 20th February 2025.

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 Issue regarding valuation of land situated at Hosur and Solan unit.

- 2.1.1 It was observed from the valuation report that Mr. Vipin Kumar has mentioned the market rate of the land at Hosur unit Rs. 33,33,333/- per acre for main road and Rs. 17,50,000 for inner road. However, in the column of sources, Mr. Vipin Kumar has provided some telephone numbers before that and not provided any concrete source for

arriving such market rate in the valuation report. Mr. Vipin Kumar has also not supplied any document reflecting the circle rate of the area or any other evidence of market comparable used by Mr. Vipin Kumar in this regard.

- 2.1.2 This according to the SCN was allegedly in violation of Rule 8(3)(g) and 8(3)(j) of the Valuation Rules.

Submission of Mr. Vipin Kumar.

- 2.1.3 Mr. Vipin Kumar submitted that Rs.33,33,333 per acre is rate for Hosur unit at main road and included in the report to set context of the market condition. There was no occasion to use this rate in the calculations since the plot under valuation is on inner road. The rate for Hosur unit at inner road normal plot is Rs.17,50,000 per acre and the same was used to arrive at the valuation, because the property in question is actually located on the inner road and not on the main road. Mr. Vipin Kumar further submitted that the two values pertaining to one of main road and one for the inner road, were both provided as a matter of record, for context alone, however, only the value pertaining to the inner road is relevant considering since, the property is located in Hosur unit.
- 2.1.4 Mr. Vipin Kumar further submitted that neither the Insolvency and Bankruptcy Board of India (IBBI) nor the Registered Valuers Organisations (RVOs) have mandated the inclusion of circle rates or market rate evidence in valuation reports. Mr. Vipin Kumar placed reliance on the Hon'ble Supreme Court's judgement in Jawaji Nagnathan Vs. Rev. Div. Officer (1994) 4 SCC 595, wherein it is stated that the circle rate/ value of property in basic valuation register cannot be considered as market rate. The same case law is cited in the Educational Course for Asset Class – land and building by the IBBI.
- 2.1.5 Mr. Vipin Kumar further submitted that the circle rates often do not accurately reflect actual market condition and considering the lack of transparency in the Indian real estate market, the circle rates cannot be regarded as a reliable basis for determining property valuations. Mr. Vipin Kumar further submitted that the circle rates referred during the preparation of the valuation report are part of the working papers, wherein, it was noted that the circle rates were significantly below the prevailing market rates. Consequently, the circle rates were not used in determining the fair value of the underlying assets.
- 2.1.6 In his additional reply, Mr. Vipin Kumar has submitted that the only methodology available to check the third-party property registration rates is to visit the local tehsil office and obtain the copies of any latest registry. In the Covid, this was not possible. Even today (minus covid situations) it is nearly impossible to assess that which adjoining property has been sold or changed hands in the current year against whose registry the rate of the other property can be compared. This information is not available in public nor the Tehsil office provide any such service. Even if it is assumed that one is able to obtain copy of any such latest registry of adjoining third party property, it is no body's case to say with 100% surety that the registry rate is the actual consideration on which the property has exchanged hands. Therefore, the only option that remained to the check

the third party property rates was to check the same with the market forces, which he has claimed to have done.

Findings of the Authority.

- 2.1.7 Rule 8(3) of the Valuation Rules, 2017 requires that a valuer's report must transparently disclose key aspects of the valuation process. Rule 8(3)(g) mandates the valuer to clearly state the nature and sources of information used or relied upon, ensuring that the report is based on verifiable data allowing readers to assess the credibility of the valuation. Further rule 8(3)(j) mandates that the valuer shall mention in his report the major factors that were taken into account during the valuation.
- 2.1.8 The Authority notes that Mr. Vipin Kumar has failed to disclose circle rates in the valuation report which are key requirements for valuing real estate unit irrespective of the fact that the circle rates were much less than the market value of the units. The Authority notes that Mr. Vipin Kumar in his report had adopted the market approach for valuing both the units of land using rates obtained on the basis of market enquiry and market information gathered from the third-party. The Authority further notes that the RV in his response has submitted the working papers prepared by him while conducting the valuation of the given lands which mention the details of market rates obtained by him with its specific sources and the circle rates considered by him. The same should have been made part of the valuation report especially when this private information of gathering the information from market, third party sources were being relied upon rather than the publicly available circle rates.
- 2.1.9 The Authority further notes from the perusal of the valuation report and the submissions of Mr. Vipin Kumar that he has considered the land rate on inner road on the basis of interaction with local people and property brokers. However, Mr. Vipin Kumar has not made available any details regarding the plots of land for which prices were ascertained by him from the property dealers and which were considered as benchmark price by him. In absence of the same, it is not clear how these plots can be said to be situated at the main road or inner road and how the prices for these plots be then adjusted for valuing the landlocked plot of the CD and therefore the valuation report does not disclose the complete source of information regarding valuation of CDs property and thereby resulting in insufficient compliance with rule 8(3)(g) of the Valuation Rules. Also, the Authority finds that merely mentioning of contact details of the persons interacted with cannot be said to be sufficient compliance with rule 8(3)(g) of the Valuation Rules in absence of details of plots of lands for which prices were ascertained from the market.
- 2.1.10 The Authority notes that Mr. Vipin Kumar relied on the Hon'ble Supreme Court's judgment in *Jawaji Nagnathan v. Revenue Divisional Officer*, (1994) 4 SCC 595, which states that the circle rate or the value of a property in the basic valuation register cannot be considered the market rate. However, the issue in the present case is not only the absence of any document disclosing the circle rate of the area but also insufficient

evidence of market comparables used by Mr. Vipin Kumar in the valuation report. Accordingly, the cited case is not relevant to the present matter.

2.1.11 In view of the foregoing, the Authority finds Mr. Vipin Kumar in violation of rule 8(3)(g) of the Valuation Rules.

2.2 Issue regarding discounting while calculating fair value and liquidation value:

2.2.1 It was observed from the valuation report that Mr. Vipin Kumar has mentioned the market rate of the land at Solan unit Rs. 21,70,213/- per bigha. Mr. Vipin Kumar has arrived at the fair value (FV) of Rs. 13,02,128/- per bigha after discounting market value by 40 %. Mr. Vipin Kumar has applied significant discounts to the market value of land without providing adequate justification for these specific percentages. While factors such as limited frontage, large size, undulating topography, and irregular shape were cited, there is no clear explanation of how these factors translate into the exact discount percentages used.

2.2.1. It was further observed from the valuation report that, for the land at Hosur unit Mr. Vipin Kumar has initially identified two market rates:

- Rs. 33,33,333/- per acre for main road
- Rs. 17,50,000/- per acre for inner road

2.2.2 However, Mr. Vipin Kumar has selected the lower of the above two values i.e. Rs.17,50,000/- per acre (inner road) for arriving at the valuation, which is significantly low compared to the value identified at the main road. Further, despite choosing this reduced value, Mr. Vipin Kumar has applied an additional discounting factor of 40% and considered the rate of Rs. 10,50,000/- per acre for arriving at the FV. Thus, the FV of the land has been discounted twice: once by selecting the lower "Inner Road" value and again by way of further 40% reduction to determine the FV. Mr. Vipin Kumar has cited factors such as "very limited frontage, large in size, undulating topography, irregular in shape, away from access road" to justify the 40% discount. However, it is unclear why these factors were not taken into account in the initial selection of the lower "Inner Road" value, which presumably reflect these limitations.

2.2.3 Further, it is also observed that Mr. Vipin Kumar has applied an additional 30% discount to the FV to arrive at the Liquidation Value (LV). Thus, it is observed that the application of cumulative discounting factor has significantly reduced the FV and LV without clear justification for each layer of reduction.

2.2.4 This information was not mentioned by Mr. Vipin Kumar in the valuation report in contravention of Rule 8(3) (g) and 8(3) (j) of the Valuation Rules.

Submission of Mr. Vipin Kumar.

- 2.2.5 Mr. Vipin Kumar submitted that Rs.33,33,333 per acre is rate for Hosur unit at main road and included in the report to set context of the market condition. There was no occasion to use this rate in the calculations since the plot under valuation is on inner road. The rate for Hosur unit at inner road normal plot is Rs.17,50,000 per acre and the same was used to arrive at the valuation, because the property in question is actually located on the inner road and not on the main road.
- 2.2.6 Mr. Vipin Kumar submitted that there are no fixed discount rates mandated by any regulatory authority and the discounting factor was determined through a detailed assessment of the specific characteristics of each property, which falls within the professional judgment of the valuer. The attributes and rationale for the discounts were thoroughly explained to the IA and the general guidelines for assessing property characteristics were also provided. Mr. Vipin Kumar further submitted that these principles are also included in the 50-hour mandatory training by IOVRVF.
- 2.2.7 Mr. Vipin Kumar submitted that the given valuation process included a site-specific assessment, which was conducted despite the challenges posed by COVID-19 restrictions. The characteristics of each property were clearly defined in the valuation report and were not arbitrarily selected, while some common features present in both the properties, there were distinct differences in the attributes of the two sites, which were carefully considered in the valuation process
- 2.2.8 Mr. Vipin Kumar submitted that the discounting process utilized in the valuation was grounded in a comprehensive approach that integrated market surveys, professional judgment, and academic references to established valuation guidelines. Specific, insights were drawn from Mr. R.K. Gandhi's authoritative book on property valuation, which outlines various methodologies for assessing property values. This text is a key resource for valuers, offering guidance on how to apply discounts based on market conditions and property characteristics. Additionally, the 50-hour training program provided by the IOVRVF includes study materials that delve into the intricacies of property valuation. These materials cover fundamental principles and practices relevant to the valuation process, offering examples of how discounts should be determined based on site-specific assessments and market data. The inclusion of this training material underscores the emphasis placed on professional judgment and best practices in the field of valuation.
- 2.2.9 Mr. Vipin Kumar further submitted that the basis of methodology adopted behind the discount were diligently maintained in working papers. Mr. Vipin Kumar also submitted that the Code mandates RV to give fair value and liquidation valuation. Thus, to arrive at the liquidation value, 30% discount was applied on the fair value.

Findings of the Authority.

- 2.2.10 Rule 8(3)(g) mandates the valuer to clearly state in his valuation report the nature and sources of information used or relied upon and rule 8(3)(j) mandates that the valuer shall mention in his report the major factors that were taken into account during the valuation.
- 2.2.11 The Authority notes that for the Hosur unit, Mr. Vipin Kumar initially identified two market rates: ₹33,33,333 per acre for the main road and ₹17,50,000 per acre for the inner road and selected the lower of the two, as the property in question was located on the inner road. Thereafter, Mr. Vipin Kumar applied discount of 40% on the market value of inner road to arrive at the fair value.
- 2.2.12 The Authority notes that Mr. Vipin Kumar in his valuation report has mentioned the factors as follows:

“Plot has Limited Frontage, Large in Size, Undulating Topography, Irregular in shape, away from access road. In my opinion, Fair Rate after discounting is 60% = Rs. 10,50,000/- Per Acre”

- 2.2.13 Accordingly, the Authority notes that although Mr. Vipin Kumar has not completely mentioned the source of information for the market value considered by him, he has mentioned the factors considered by him for applying the discount of 40% on the market value to arrive at the fair value of the property.

3. Order.

- 3.1. The valuation report submitted by a Registered Valuer serves as a critical document for the Committee of Creditors to take crucial decision about the resolution plan in CIRP and reserve price of asset during liquidation. The stakeholders decide the course of action based on the valuation report and accordingly the reliability of the valuation report becomes important. Therefore, it is necessary that the valuation report is transparent and complete in itself such that there is clarity to the stakeholders while relying on valuation report and decisions taken are optimal. The valuer must disclose all the relevant and essential information with respect to the valuation of the assets so that this purpose is served.
- 3.2. In view of the foregoing, after considering the allegations made in the SCN, the detailed reply provided by Mr. Vipin Kumar and the materials available on record, 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 Valuation Rules hereby suspends the registration of Mr. Vipin Kumar for a period of three months.
- 3.3. In accordance with provisions of Rule 17(8) of the Valuation Rules, this Order shall come into force after 30 days from the date of issue of this order.

- 3.4. A copy of this order shall be forwarded to ICAI Registered Valuers Organisation where the RV is enrolled as a member.
- 3.5. Accordingly, the show cause notice is disposed of.

Sd/-
(Sandip Garg)
Whole Time Member
Insolvency and Bankruptcy Board of India

Dated: 26.03.2025
Place: New Delhi