

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO.16410 of 2021**

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GUNDEEP SINGH SOOD S/O GURDEEP SINGH SOOD  
Versus

INSOLVENCY PROFESSIONAL AGENCY OF INSTITUTE OF COST  
ACCOUNTANTS OF INDIA

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Appearance:

MR KAMLESH P VAIDANKAR(10135) for the Petitioner(s) No. 1

MS NILU K VAIDANKAR(8382) for the Petitioner(s) No. 1

MR MN MARFATIA(6930) for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE BIREN VAISHNAV**

**Date : 08/11/2022**

**ORAL ORDER**

(1) Heard Mr. Kamlesh P. Vaidankar, learned counsel for the petitioner and Mr. M. N. Marfatia, learned counsel for the respondent. Perused the record.

(2) Challenge in this petition is to the order dated 13.08.2021 by which the application for enrollment of the petitioner as Professional Member with Insolvency Professional Agency of Institute of Cost Accountants of India has been rejected.

(3) Mr. Vaidankar, learned counsel for the petitioner would assail the order on the ground that the order is sans reasons. It is

the case of the petitioner that in accordance with Regulation No.5 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016, the petitioner has passed his Limited Insolvency Examination conducted by the Insolvency and Bankruptcy Board of India on 23.11.2020 and a certificate has been issued thereunder.

3.1. Mr. Vaidankar would further submit that reading the order indicates that the only ground of rejection of the application for enrollment is on account of pending proceedings, against the applicant, under Section 138 read with Section 141 of the Negotiable Instruments Act, 1881 in the Competent Courts at New Delhi and Kolkata. The order further indicates that as per Regulation 4(g) of the Regulations, no individual shall be eligible to be registered as an Insolvency Professional, if he is not a fit and proper person. Amongst other; integrity, reputation and character are taken into account to determine if an individual is a fit and proper person.

(4) Mr. Marfatia, learned counsel for the respondent - Institute

would submit that in light of pending criminal cases, the petitioner is not a fit and proper person and even as per the CIBIL report, he is not found satisfactory, and therefore cannot be appointed as an Insolvency Professional. He would rely on the affidavit-in-reply filed which indicates that the order is passed after due deliberations and consideration of material facts regarding the four criminal proceedings and the proceedings regarding CIRP against the Company managed by the petitioner and the low score of CIBIL.

(5) *Prima facie*, reading of the order would indicate that after having set out circumstances, the only observation made in the order is in paragraph No.8 which reads as under:

*“8. The Membership Committee meeting after going through the documents and replies submitted by the applicant opined that the enrollment ought not be granted to the applicant, as he is not found to be a fit and proper person to be enrolled as a Professional Member with IPA ICAI and reject the application of Mr. Gundeep Singh Sood for enrollment as a Professional Member.”*

(6) It is the case of the petitioner that the petitioner was a Director in a Company named Krrome Glass Pvt. Ltd., Kolkata which became financially embarrassed over a period of time and ultimately the National Company Law Tribunal, Kolkata ordered initiation of Corporate Insolvency Resolution Process (CIRP) against the company vide its order dated 17.01.2020. The petitioner also was a Director in another company namely; Pabanso India Private Limited. The Companies had issued various Cheques which were dishonored. The petitioner was a Director of the Companies and, therefore, in his capacity as a Director, he was joined in the complaints filed under Section 138 of the Negotiable Instruments Act. Because of the financial incapacity of the Company, it appears that the CIBIL score of the petitioner was not upto the mark. This consideration seem to have not been examined by the authorities while passing the impugned order hereunder.

(7) Accordingly, as the order is passed without detailed examination of the facts and the reasons as set out in the

petition, the order impugned is quashed and set aside only on this count with a liberty to the respondent to pass a fresh order in light of Regulation No.4 of the Regulations, 2016 taking into consideration the facts narrated in context of the petitioner's capacity as a Director of the Companies and the consequential CIBIL score.

(8) A fresh order accordingly with detailed reasons shall be passed within a period of *four weeks* from the date of receipt of copy of this order.

(9) The petition stands disposed of with the above observations. Direct Service is permitted. No order as to costs.

VATSAL S. KOTCHA

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(BIREN VAISHNAV, J)