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CHARTERED ACCOUNTANTS

CASE: Insolvency and Bankruptcy Board of India

Recent order by Insolvency and Bankruptcy Board of India rejected registration of an applicant who had applied for being registered as an Insolvency Professional (IP) on the grounds of "Fit and Proper Criteria"

The following categories of individuals are eligible for registration as an IP:

- Advocates, Chartered Accountants, Company Secretaries and Cost Accountants with 10 years of post-membership experience (practice or employment) or a Graduate with 15 years of post-qualification managerial experience, on passing the Limited Insolvency Examination, or
- Any other individual on passing the National Insolvency Examination.

However, Advocates, Chartered Accountants, Company Secretaries and Cost Accountants with more than 15 years of practice experience may seek registration, without any examination. But applications for such registration need to be made till 31st December 2016 and such registration shall be valid for a limited period of six months.

Facts of the Case:

In the Matter of Application of Mr. Vimal Prakash Dubey for Grant of Certificate of Registration as an IP under regulation 7 of The Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016, Order was passed under Regulation 8(3)(B).

As per regulation 4(g) of the Regulations, no individual shall be eligible to be registered as an IP if he is not a fit and proper person. Among others, integrity, reputation and character are considered to determine if an individual is a fit and proper person. While considering the aforesaid application for registration, it was observed that three criminal proceedings are pending against the applicant under Section 58A (10) of the Companies Act, 1956(hereinafter 'the Act') before the Additional Chief Metropolitan Magistrate (40th Court), Gurgaon, Mumbai for contravention of Section 58A (9) of the Act.

The Board accordingly formed a prima facie opinion that the registration ought not be granted to the applicant, as he is not a fit and proper person to be registered as an IP. Vide its communication dated February 8, 2017, prima facie opinion along with the reason for the same and provided an opportunity to explain why his application should be accepted, within 15 days of receipt of communication.

The full text of the order can be viewed and downloaded using this link <http://ibbi.gov.in/order1.pdf>