

# INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Disciplinary Committee)

No. IBBI/DC/150/2023

14<sup>th</sup> February, 2023

## Order

**In the matter of Mr. Viswanathan Sankaran, Insolvency Professional (IP) under section 220 of the Insolvency and Bankruptcy Code, 2016 read with regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017.**

This Order disposes of the Show Cause Notice (SCN) No. IBBI/IP/INSP/2022/115/4057/614 dated 20.09.2022 issued to Mr. Viswanathan Sankaran, R/o 106<sup>th</sup> A Cross, Ramaswamy Palya Vignana Nagar, Bangalore, Karnataka-560037 who is a Professional Member of the Indian Institute of Insolvency Professionals of ICAI (IIP-ICAI) and an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (IBBI) with Registration No. IBBI/IPA-001/IP-P00538/2017-2018/10963.

### 1. Background

- 1.1. The Hon'ble NCLT, Bengaluru Bench (AA) *vide* order dated 08.03.2021 admitted the application under section 9 of the Insolvency and Bankruptcy Code, 2016 (Code) filed by Smt. Yogitha Vijaykumar, Proprietor of M/s Shree Ratna Farm Products for initiating Corporate Insolvency Resolution Process (CIRP) of the Maylari Agro Products Ltd. (CD) and appointed Mr. Viswanathan Sankaran as Interim Resolution Professional (IRP). Mr. Viswanathan Sankaran was replaced by Ms. Shirley Mathew as Resolution Professional (RP) *vide* the AA's order dated 30.11.2021.
- 1.2. The IBBI, in exercise of its powers under section 218 of the Code read with regulation 3(2) and 3(3) of the IBBI (Inspection and Investigation) Regulations, 2017 (Inspection Regulations) appointed an Inspecting Authority (IA) to conduct the inspection of Mr. Viswanathan Sankaran. In compliance with regulation 6(1) of Inspection Regulations, IA shared the Draft Inspection Report (DIR) with Mr. Viswanathan Sankaran on 03.06.2022 to which response was received on 17.06.2022. Thereafter, IA submitted the Inspection Report (IR) on 27.06.2022 in accordance with regulation 6(4) of the Inspection Regulations.
- 1.3. The IBBI issued the SCN to Mr. Viswanathan Sankaran on 20.09.2022, based on the findings in the inspection report in respect of his role as an IRP in the CIRP of CD and material available on record. Mr. Viswanathan Sankaran submitted his reply to SCN *vide* email dated 29.09.2022.
- 1.4. The IBBI referred the SCN, response of Mr. Viswanathan Sankaran to the SCN and other material available on record to the Disciplinary Committee (DC) for disposal of the SCN in accordance with the Code and Regulations made thereunder. Mr. Viswanathan Sankaran availed opportunity of e-hearing before the DC on 13.01.2023.

1.5. The DC has considered the SCN, the reply to SCN, submissions of Mr. Viswanathan Sankaran, other material available on record and proceeds to dispose of the SCN.

## **2. Alleged Contraventions, Submissions, Analysis and Findings**

The contraventions alleged in the SCN and Mr. Viswanathan Sankaran's written and oral submissions thereof are summarized as follows.

### **3. Contravention-I**

#### **Irregularity in appointment as RP.**

- 3.1 The Board observed from the notice dated 03.04.2021 for the 1st CoC meeting held on 09.04.2021 that one of the matters to be discussed and voted upon during the meeting was appointment of IRP as RP or replace the IRP by another RP. It is further noted that the minutes of the said 1<sup>st</sup> CoC meeting record that the members have unanimously resolved to appoint Mr. Viswanathan Sankaran as the RP at a remuneration of Rs. 4 lakhs. It is, however, observed that one of the FCs, i.e., Canara Bank having 84.6% voting share *vide* its letter dated 26.04.2021 objected to his appointment as the RP and even requested him to conduct the next CoC meeting at the earliest. The said letter further reveals that the Canara Bank denied having voted on any agenda in the 1<sup>st</sup> CoC meeting. On his failure to consider their request, Canara Bank filed an application before the AA seeking replacement of Mr. Viswanathan Sankaran.
- 3.2 It was, thus, evident that Mr. Viswanathan Sankaran has recorded the minutes of 1<sup>st</sup> CoC meeting by intentionally misrepresenting the facts with a *mala fide* intention. Mr. Viswanathan Sankaran further continued with this misrepresentation by filing a memo dated 12.04.2021 before the AA intimating it about his appointment as a RP even though no such resolution can be said to be passed, in view of denial of the Canara Bank to have voted in favour of this resolution. It is also noted that he did not pay any heed to the request of Canara Bank to convene 2<sup>nd</sup> meeting of the CoC which he was bound to do as per regulation 22(2) of the Code as Canara Bank was having 84.6% voting share.
- 3.3 It was further observed that *vide* order dated 30.11.2021 passed in IA No. 276 of 2021, the AA allowed the prayers of the Financial Creditor (FC) Canara Bank for his replacement and even observed in their order that he failed to conduct the CIRP in accordance with the Code and Regulations made thereunder.
- 3.4 In view of the above, the Board held the *prima facie* view that he has, *inter alia*, violated section 22(2) of the Code read with clauses 1, 2, 3, 5, 13 and 14 of the Code of Conduct as specified in the First Schedule of IBBI (Insolvency Professionals) Regulations, 2016 (Code of Conduct).

## Submissions

- 3.5 Mr. Viswanathan Sankaran submitted that the two orders passed by the AA on 30.11.2022 along with the allegations in the SCN are presently under appeal with Hon'ble National Company Law Appellate Tribunal (NCLAT), Chennai Bench, and are therefore *sub judice*.
- 3.6 Mr. Viswanathan Sankaran submitted that the alleged irregularity under section 22(3) of Code relies primarily on a single piece of evidence, a letter dated 26.04.2021, which states in para 1 of the letter that *"Canara Bank as a member of CoC has not affirmed any of these agendas as such our voting to be treated as "negative."*
- 3.7 Mr. Viswanathan Sankaran submitted that on the basis of this single piece of evidence it has been concluded that he has recorded the minutes of the 1st CoC meeting as *"intentionally misrepresenting the facts with malafide intentions ..and further continued by filing a memo dated April 12, 2021 before AA intimating it about his appointment as a RP even though no such resolution can be said to be passed in view of the denial of Canara Bank to have voted in favour of this resolution."* The SCN on the basis of this single piece of evidence arrives at the conclusion that nothing whatever happened in the 1<sup>st</sup> CoC meeting and whatever has been recorded by him in the minutes is a fabrication. The answers to the questions raised below form an effective rebuttal for the abovementioned allegation in the SCN.
- i) The notice of the meeting was given on 03.04.2021 with the agenda, among others, of his appointment as an RP or his replacement with another RP. If Canara Bank wanted to replace him with another from their panel why was no notice given to him with such a proposal and the consent of the proposed RP either before or during the CoC meeting 6 days later?
  - ii) The letter on which the SCN relies has been written on the 26.04.2021, 23 days after the notice, 17 days after the CoC, 15 days after the minutes of the meeting was given to them and 14 days after his filing of the memo with NCLT. What was Canara Bank doing during this long interim period?
  - iii) The letter has been written by one Mr. TN Jayaprakash, DGM Recovery of Canara Bank, a person who is not the designated authorised representative of Canara Bank and more importantly one who was not present in the CoC meeting and therefore cannot know anything about what happened in the meeting except through the minutes and through hearsay. If he says anyway that 'Canara Bank voted in the negative' why is the letter silent on what exactly happened at the meeting?
  - iv) Mrs. Chandrika, AGM, was the authorised representative of Canara Bank who attended the meeting and voted thereon on behalf of Canara Bank. If Mrs. Chandrika voted in the "negative, did not agree with the minutes and felt that it was fabricated, why has she not said anything about the 1st CoC to him or to NCLT or to the Board so far?
  - v) Karnataka Bank is a bank of as equal repute as Canara Bank. The minutes were sent to them as well as other members of the CoC (including Canara Bank) within 48 hours of the conclusion of the meeting on the 11.04.2021 as required under Regulation 24(7). If there had

been any misstatement in the minutes or if the minutes were not a true representation of the actual proceedings of the CoC, why has Karnataka Bank not said anything about it so far?

vi) It should also be noted that inspite of the letters of 26.04.2021 and 06.05.21 ‘negating’ or questioning the minutes of the 1st CoC meeting, the authorised representative of Canara Bank in the 2<sup>nd</sup> CoC meeting did not raise this issue – i.e. the validity of the 1<sup>st</sup> CoC decisions in the 2<sup>nd</sup> CoC meeting, a copy of which has been filed by them before the AA as a memo on 15.11.2021. The only possible reason for this is that a third party bank, Karnataka Bank, represented by the same member who attended the 1<sup>st</sup> CoC meeting, Mr. RK Goli, was present in the meeting and he will not support a lie by Canara bank.

Mr. Viswanathan Sankaran submitted that it should be clear from the above observations that the letter of 26.04.2021 is clearly an afterthought and based on lies. It also follows that the 1st CoC was a valid one and happened as recorded in the minutes.

3.8 Mr. Viswanathan Sankaran submitted that the SCN further states that its allegation of fabrication of the minutes of the 1st CoC minutes based on the letter of 26.04.2021 is buttressed by the order of 30.11.2021 of the AA which approved his replacement with the observation *“in view of the clear mandate of Section 27 of the IBC and in view of the failure in conducting the CIRP in accordance with the code and regulations made thereunder, the instant IA is allowed.”* A few questions arise from this observation:

i) The replacement of Mr. Viswanathan Sankaran as an RP has been made under section 27(2) of the Code based on the voting in the 2nd CoC meeting in which Canara Bank with a vote share of 84.6% voted for his replacement and Karnataka Bank with a vote share of 15.4% voted for his continuing as an RP. In the CoC minutes, filed by Canara Bank with the AA on 15.11.21, the reason for replacement is stated in the CoC minutes as follows: *“when pressed for the grounds on which they (Canara Bank) wanted .. a replacement they (Canara Bank) stated “There are No Grounds”* On what basis has the AA made the cited allegation as a rationale for replacement?

ii) The AA has quoted the entire section of 27 the Code in para 8 of the order before proceeding for the replacement order under para 9. Section 27 deals specifically with the “Replacement of the Resolution Professional by the Committee of Creditors”. Does this not automatically imply that the AA has accepted the decision of the CoC in its first meeting on 09.04.2021 to approve his appointment as a RP?

iii) The entire order made by the AA on IA 276 is centred on section 27 of the Code which deals specifically with the “Replacement of the Resolution Professional by the Committee of Creditors”. Is there not a contradiction then in the court referring to his right through the order as an IRP?

It will therefore be incorrect for the SCN to take the observations made in the court order of 30.11.21 as a corroboration of its interpretation and conclusions from the letter of 26.04.2021.

3.9 Mr. Viswanathan Sankaran finally submitted that for any allegation that the 1<sup>st</sup> CoC meeting did not take place as stated by him, a statement of denial, and more importantly, an affidavit

of what exactly took place in the meeting will have to be produced from the third parties who actually attended the meeting, i.e. Mrs. Chandrika, AGM, Designated representative and head of South End Branch, Bangalore, Canara bank; Mr. RK Goli, Tumkur Branch, Karnataka Bank, Mr. Mahesh, Suspended Director, Mayalari, Mr. Rao, CFO, Maylari. Since no affidavit exists, therefore they have not been produced and submitted to the AA or the Board so far to support the allegation of the Recovery Section officers of Canara Bank of his fabricating the minutes of the meeting in their letters of 26.04.2021 and 06.05.2021. It follows therefore that the observations and the conclusions drawn therefrom of the SCN are incorrect and there is therefore no violation of section 22(3)(a) of the Code. It also follows that the 1<sup>st</sup> CoC meeting is valid and in order. He was duly appointed as a Resolution Professional in that meeting and that he is entitled to the remuneration and expenses as approved in the meeting till the time of his handing over charge to the new RP.

### **Analysis and Findings**

- 3.10 The DC notes that first meeting of CoC was conducted on 09.04.2021 which was attended by Mrs. Chandrika, representative of Canara Bank, Mr. R K Goli, representative of Karnataka Bank, directors of suspended board of CD and Mr. Viswanathan Sankaran. The agenda was put up for appointment of Mr. Viswanathan Sankaran as RP or replace him with another RP. The minutes of 1<sup>st</sup> CoC meeting states that CoC members resolved to appoint Mr. Viswanathan Sankaran as RP at a remuneration of Rs. 3 Lakhs per month plus taxes as applicable.
- 3.11 Subsequently, Mr. TN Jayaprakash, Deputy General Manager of Canara Bank wrote letter dated 26.04.2021 to Mr. Viswanathan Sankaran stating that Canara Bank has more than 84% voting share in CoC. It further stated that their representative has not agreed to any of the agendas, ie, for continuing of Mr. Viswanathan Sankaran as RP and fixing the fees of RP and further mentioned that Canara Bank has not affirmed to any of these agendas and that no voting either physical or electronic had been resorted to in the meeting. The letter further requested to call meeting of CoC at the earliest so that minutes drawn erroneously can be discussed and further course of action including replacement of IRP.
- 3.12 Thereafter IA 276/2021 was filed by Canara Bank on 15.06.2021. The AA *vide* order dated 17.09.2021 directed Mr. Viswanathan Sankaran to hold the CoC meeting by next week. The meeting was held on 21.10.2021 and Mr. Viswanathan Sankaran was replaced by Ms. Shirley Mathew as RP.
- 3.13 Thereafter, the AA *vide* order dated 27.10.2021 directed both the parties to settle the matter regarding payment of fees and expenses amicably among them. Mr. Viswanathan Sankaran submitted that Canara Bank was not interested in any meeting.
- 3.14 Finally, the AA *vide* order dated 30.11.2021 in IA 276/2021 observed that:

*“The Respondent/IRP instead of filing the voting sheet pertaining to the first CoC meeting dated 09.04.2021 contended that there is no need of maintaining any voting sheet which is unacceptable and against to the Code and Regulations made thereunder.”*

...

*“We find force in the submission made on behalf of the Canara Bank. The Applicant/Canara Bank having 84.6% voting share in the CoC is entitled to pass a Resolution to replace the Respondent and to seek appointment of another Insolvency Professional as the Resolution Professional in place of the Respondent, if in its opinion, he is not discharging his duties, in accordance with law.”*

...

*“...in view of the clear mandate of Section 27 of the IBC and in view of the failure in conducting the CIRP by the Respondent in accordance with the Code and Regulations made thereunder, the instant IA is allowed. Accordingly, the Respondent is replaced as the IRP of the Corporate Debtor i.e. M/s. Mylari Agro Products Ltd. And Ms. Shirley Mathew is appointed as the Resolution Professional in place of the Respondent.”*

- 3.15 The DC notes that said observations made by the AA in above order is challenged by Mr. Viswanathan Sankaran before Hon’ble NCLAT, Chennai Bench to set aside the order dated 30.11.2021 passed in IA 276/2021 by the AA which records adverse and disparaging remarks against Mr. Viswanathan Sankaran.
- 3.16 Mr. Viswanathan Sankaran has also filed IA 349/2021 to confirm him as RP of CD which was also dismissed by the AA on 30.11.2021. The said order has also been challenged by Mr. Viswanathan Sankaran before Hon’ble NCLAT, Chennai Bench.
- 3.17 However, the DC notes that the abovesaid order of the AA involving the appointment of RP is under challenge before Hon’ble NCLAT, Chennai Bench in appeal by Mr. Viswanathan Sankaran, hence the DC refrains from intervening in the matter, at this stage.

#### **4. Contravention-II**

##### **Failure to convene CoC meetings as per Regulation 18 of extant CIRP Regulations**

- 4.1 Regulation 18 of extant IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) specifies that RP may convene a meeting, if he considers it necessary, and shall convene a meeting if a request to that effect is made by members of the committee representing thirty-three per cent of the voting rights.
- 4.2 The Board observed that one of the FCs Canara Bank with 84.6% voting share *vide* a letter dated 26.04.2021 requested Mr. Viswanathan Sankaran to conduct the next CoC meeting at the earliest. The said letter of FC also indicated the issues intended to be discussed in the CoC meeting. However, he failed to consider the request of the FC who had the requisite voting percentage to request for a CoC meeting. He not only failed to consider the request of the FC but also conducted the 2<sup>nd</sup> CoC meeting after a substantial elapse of time on 21.10.2021. He

avoided calling for a meeting, mandated as per law, which is *mala fide* when seen in context that the agenda was to replace him with another RP.

- 4.3 The Board also noted that he made incorrect submissions in his reply to the DIR stating that there was no request made by Canara Bank in their letter dated 26.04.2021 to convene a meeting. However, upon perusal of the contents of the said letter, it is observed that Canara Bank in para 3 of their letter had requested him to call for a CoC meeting at the earliest.
- 4.4 Thus, in view of the above, the Board held the *prima facie* view that Mr. Viswanathan Sankaran has *inter alia* violated regulation 18 of CIRP Regulations as in time, clauses 1, 2, 13 and 14 of the Code of Conduct.

### **Submissions**

- 4.5 Mr. Viswanathan Sankaran submitted that there is no request made by Canara Bank in their letter of 26.04.2021 to convene a CoC meeting under section 18(1). Further a request under section 18(1) also needs to be accompanied by a detailed note as specified by the Board in guidelines dated 16.04.2021 and served on all the stakeholders including, in this instance, Karnataka Bank and the suspended Board. It should also be noted that the letter is addressed to the IRP. A request for convening a CoC meeting can only be made to a RP under regulation 18. It automatically follows that no such request can be made by the letter of 26.04.2021. Additionally, no request whatever for convening a CoC meeting under regulation 18 has been made by the Recovery Section of Canara Bank in the other two correspondences from them, namely their letter of 06.05.21 and their IA of 15.06.21.
- 4.6 There has been no “substantial elapse” of time between the 1<sup>st</sup> and 2<sup>nd</sup> CoC meeting. The 2<sup>nd</sup> CoC meeting was called when it was required to be so called, that is when we needed to get the CoC approval for Expression of Interest (EOI) and Form G leading up to a resolution, and he was able to do so overcoming the restraints placed upon him by Canara Bank. This comment has been made without factoring the days lost to Covid and other extraneous circumstances and allowed as such by NCLT in IA 330.
- 4.7 He submitted that no request for a new (2<sup>nd</sup>) CoC meeting was made by the DGM Recovery in his letter either under regulation 18 or otherwise. The request made in para 3 of the letter was for a reopening and a reconvening of the completed 1st CoC. He quoted from para 3 of the letter: “*We request you to correct the above, and call for meeting of CoC at the earliest so that minutes drawn erroneously as above can be discussed*” This is clearly a request to reconvene the 1st CoC meeting and change the proceedings therein as per his wishes and can by no stretch of imagination be construed as a request for calling for a totally separate 2nd CoC meeting
- 4.8 He further submitted that for an allegation to be made by the Board of any violation on his part in not acting upon a request made by a CoC member to convene a CoC meeting under regulation 18, such a letter has to be produced in evidence. None exists and therefore none

has been produced by SCN in support of their allegation. And further, the letter should be from the Authorised Representative of the FC CoC member, i.e., the head of the designated operational branch and not from someone in the Bank who is in charge of an entirely different function, Recovery, and with no locus standi to deal with CIRP or RP. It can be seen from the above that the observations and the conclusions drawn therefrom by the SCN are incorrect and there is therefore no violation of regulation 18(2) of the CIRP Regulations read with clause 13 of the Code of Conduct as alleged.

## **Analysis and Findings**

4.9 Regulation 18 of CIRP Regulations before amendment on 09.02.2022 provided as follows:

*18. Meetings of the committee.*

*A resolution professional may convene a meeting of the committee as and when he considers necessary, and shall convene a meeting if a request to that effect is made by members of the committee representing thirty three per cent of the voting rights.*

Further, regulation 17(3) of the CIRP Regulations provides as follows:

*17. Constitution of committee.*

*(3) Where the appointment of resolution professional is delayed, the interim resolution professional shall perform the functions of the resolution professional from the fortieth day of the insolvency commencement date till a resolution professional is appointed under section 22.*

4.10 The regulation 17(3) of CIRP Regulations provides that an IRP shall perform functions of RP till appointment of RP. Hence the letter dated 26.04.2021 by Canara Bank has been rightly addressed to Mr. Viswanathan Sankaran as an RP. Further, the Canara Bank also holds voting share of more than thirty three percent required under regulation 18 of the CIRP Regulations for requesting to convene meeting.

4.11 The DC notes the submission of Mr. Viswanathan Sankaran that a request under regulation 18(1) of CIRP Regulations also needs to be accompanied by a detailed note. The “Clarification - Consideration of matters / issues by the committee of creditors on request by members of the committee” dated 16.04.2021 issued by IBBI provides as follows:

*“3. It is clear from a joint reading of the provisions of regulations 18, 19 and 21 of the CIRP Regulations that members of the CoC having 33% of the voting rights may request the RP to convene a meeting of the CoC. Such request shall include a note proposing the matters to be discussed or issues to be voted upon, along with relevant documents, if any. On receipt of the request, the RP shall convene a meeting of the CoC for consideration of the note.”*

It further explains the note as follows:



*‘Note’ means a note proposing the matters to be discussed or issues to be voted upon, along with relevant documents, if any, in a meeting of the CoC.*

The DC notes that Mr. Viswanathan Sankaran has not informed Canara Bank required requirement of note and did not ask them to submit note.

- 4.12 The DC observes that para 3 of the letter dated 26.04.2021 provides that *“We request you to correct the above, and call for meeting of CoC at the earliest so that minutes drawn erroneously as above can be discussed.”* The contents of the letter clearly imply request to convene meeting by member of CoC. The submission by Mr. Viswanathan Sankaran that this is a request to reconvene the 1<sup>st</sup> CoC meeting and change the proceedings therein and not a request for calling for a totally separate 2<sup>nd</sup> CoC meeting is somewhere an acceptance of the fact that request has been made to convene meeting of CoC. By naming it as 1<sup>st</sup> or 2<sup>nd</sup> meeting, Mr. Viswanathan Sankaran is being evasive in his responsibility to act as per regulation 18(1) of CIRP Regulations. Hence the DC finds that by not adhering to the request of the FC to conduct meeting, Mr. Viswanathan Sankaran has violated regulation 18 of CIRP Regulations, clauses 1, 2, 13 and 14 of the Code of Conduct.

## **5. Contravention-III**

### **Violation of the AA’s order**

- 5.1 It was observed that the AA passed an order dated 17.09.2021 in IA No. 276 of 2021 directing *“The Resolution Professional is directed to hold a CoC meeting by next week and submit a Resolution immediately”*. It was noted that despite being directed by the AA to hold CoC meeting by next week, Mr. Viswanathan Sankaran conducted the 2<sup>nd</sup> CoC meeting with a substantial delay on 21.10.2021.
- 5.2 As an IP it is duty of Mr. Viswanathan Sankaran to abide by the orders passed by the AA in its letter and spirit, and his conduct of convening CoC meeting with a delay even when the order of the AA was explicit in its directions is *prima facie* in violation of section 17(2)(e) of the Code read with clause 12 and 14 of the Code of Conduct.

### **Submissions**

- 5.3 Mr. Viswanathan Sankaran submitted that he cannot understand how a delay of 8 days in DIR has morphed to a larger delay in the SCN. He reproduced the allegation in the DIR below: *“However, it has been noted that the order was uploaded on 06th October 2021. The IP, as per the order dated 17th September 2021, should have conducted the meeting by 13th October 2021 (assuming that the order has been uploaded on 6th October 2021). However, from the documents available on record, it is noted that the IP conducted the CoC meeting on 21<sup>st</sup> October, 2021, i.e. after a delay of 8 days”*
- 5.4 He submitted that the above observation is not so much of an observation as a morphed rephrasing and quantification of the non-factual allegations made by Canara Bank in their complaint of 22.10.2021 for which he had given a detailed reply to IBBI. He submitted that

there has been no delay. The CoC meeting was called for on the day the order was received, i.e. on the 06.10.2021. The actual meeting could not be held earlier due to the prior engagements of the CoC members and the Dussehra holidays. This is recorded in the reply by Canara Bank on 07.10.2021 from their Authorised Representative to his request for a meeting.

- 5.5 He submitted that the CoC meeting was held as ordered by NCLT to take forward the CIRP Resolution on the 21<sup>st</sup> before the date fixed for the next hearing which was the 23.10.2021. There has thus been no violation of section 17(2)(e) as alleged by the SCN.
- 5.6 Mr. Viswanathan Sankaran submitted that Canara Bank committed a contempt of Court. The AA's order dated 27.10.21, stated that Canara Bank should discuss with him and should find an amicable solution. The operative part of the order in IA 276 in para 3 read: *"With regard to the dispute about the payment of fees and expenses both the parties ( i.e. Canara Bank and S.Viswanathan) shall try to settle the matter amicably among themselves and report back to the Adjudicating Authority on the next date of hearing List on 10.11.21"* Thus giving a time period of 2 weeks for such bilateral discussions. He submitted Canara Bank committed a contempt of court by refusing to meet him for any such discussion vide email dated 02.11.2021 stating that they are not agreeable to any private meeting.

### **Analysis and Findings**

- 5.7 The DC notes that Mr. Viswanathan Sankaran was present before the AA on 17.09.2021 while order for conducting CoC meeting by next week was passed. Hence it may be said that he was aware of direction by the AA. The DC further notes that representative of Canara Bank vide email dated 07.10.2021 requested to prepone the meeting to 16.10.2021 or postpone it to 21.10.2021 or 22.10.2021 on behest of his unavailability due to personal engagement. In light of above, DC is inclined to take a lenient view.

### **6. Order**

- 6.1 In view of the forgoing discussion, the DC finds that Mr. Viswanathan Sankaran is in violation of regulation 18 of CIRP Regulations, clauses 1, 2, 13 and 14 of the Code of Conduct for failing to convene CoC meeting on the request of FC.
- 6.2 The DC, in exercise of the powers conferred under section 220(2) of the Code read with regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 hereby suspends the registration of Mr. Viswanathan Sankaran having Registration No. IBBI/IPA-001/IP-P00538/2017-2018/10963 for a period of one year.
- 6.3 This Order shall come into force on expiry of 30 days from the date of its issue.
- 6.4 A copy of this order shall be sent to the CoC of all the Corporate Debtors in which Mr. Viswanathan Sankaran is providing his services, if any.

- 6.5 A copy of this order shall be forwarded to the Indian Institute of Insolvency Professionals of ICAI where Mr. Viswanathan Sankaran is enrolled as a member.
- 6.6 A copy of this Order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal.
- 6.7 Accordingly, the show cause notice is disposed of.

-sd-  
(Jayanti Prasad)  
Whole-time Member, IBBI

Dated: 14<sup>th</sup> February 2023  
Place: New Delhi