

# INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Disciplinary Committee)

No. IBBI/DC/221/2024

18<sup>th</sup> June, 2024

## ORDER

This Order disposes of the Show Cause Notice (SCN) No. IBBI/C/2022/00667/835/58 dated 05.02.2024 issued to Mr. C Ramasubramainam who is an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (IBBI) with registration no. IBBI/IPA-002/IP-N00052/2016-2017/10096 and a professional member of the ICSI Institute of Insolvency Professionals, residing at 'RAJI', 3B1, 3rd Floor, Gaiety Palace, No. 1L, Blackers Road, Mount Road, Chennai, Tamil Nadu ,600002.

### 1. Background

- 1.1 The SCN dated 05.02.2024 deals with the contraventions of the provisions of the Insolvency and Bankruptcy Code, 2016 (Code) and regulations made thereunder by Mr. C Ramasubramainam during the period of handling assignments with respect to following Corporate Debtors (CDs):-
  - a. M/s SLO Industries Limited (CD-1)
  - b. M/s. Padmaadevi Sugars Limited (CD-2).
- 1.2 The NCLT, Chennai Bench, (AA) *vide* order dated 04.11.2019, admitted the application filed by the financial creditor Corporation Bank, under section 7 of the Code, for initiating Corporate Insolvency Resolution Process (CIRP) of CD-1 and Mr. C Ramasubramainam was appointed as Interim Resolution Professional (IRP). Mr. C Ramasubramainam was later confirmed as Resolution Professional (RP) by the Committee of Creditors (CoC) in its third CoC meeting held on 27.12.2019. Later, as no resolution plan was approved by the CoC, the AA ordered for liquidation of CD-1 on 21.01.2022 and appointed Mr. S Palaniappan as liquidator. The Stakeholders Consultation Committee (SCC) passed resolution with 91.55% voting, for replacement of Mr. S Palaniappan. The AA *vide* order dated 28.11.2023 appointed Mrs. Revathi S Raghunathan as liquidator.
- 1.3 The CIRP of CD-2 was admitted by the NCLT, Chennai Bench, (AA) *vide* order dated 15.10.2018, admitted the application filed by the financial creditor Bank of India for initiating CIRP of CD-2 and appointed Mr. M V Gangadharan as IRP who was later confirmed as RP. The CD was admitted into liquidation by the AA *vide* order date 20.04.2021, Mr. C Ramasubramainam was appointed as Liquidator.
- 1.4 The Board received the several complaints against Mr. C Ramasubramainam in respect of the assignments handled by him in CD-1 and CD-2.

- 1.5 The IBBI, in exercise of its powers under section 218 of the Code read with regulation 7(1) and 7(2) of the IBBI (Inspection and Investigation) Regulations, 2017 (Investigation Regulations) appointed an Investigating Authority (IA) to conduct the investigation of Mr. C Ramasubramainam. Accordingly, a notice under regulation 8(1) of the Investigation Regulations was issued to Mr. C Ramasubramainam on 19.10.2022 in the matter of CD-1. Pursuant to the said notice, he replied *vide* mail dated 25.10.2022. Additionally, a notice under regulation 8(1) of the Investigation Regulations was issued to Mr. C Ramasubramainam on 29.05.2023 in the matter of CD-2. Pursuant to the said notice, he replied *vide* mail dated 07.06.2023. Thereafter, investigation reports were submitted by the IA to the Board.
- 1.6 Based on the investigation reports, the Board formed a *prima facie* view and issued a joint SCN dated 05.02.2024 was issued to Mr. C Ramasubramainam in respect of his role as an RP of the CD -1 and Liquidator of CD-2 alleging contraventions of various provisions of the Code and its underlying regulations. Mr. C Ramasubramainam submitted his reply to the SCN on 19.02.2024.
- 1.7 The Board referred the SCN and the response of Mr. C Ramasubramainam to the Disciplinary Committee (DC) for disposal in accordance with the Code and Regulations made thereunder. Mr. C Ramasubramainam availed opportunity of personal hearing before the DC on 10.04.2024 and preferred to attend the same physically. During the hearing, on his request DC granted him 10 days' time for making additional submissions in writing. However, Mr. C Ramasubramainam has refrained from submitting any additional written submission till date despite reminder being issued with request to expedite the same. Presuming that Mr. C Ramasubramainam has nothing to add further, DC disposes of this SCN based on material available on record.

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

The contravention alleged in the SCN and Mr. C Ramasubramainam's written and oral submissions thereof are summarized as follows:

### **In the matter of M/s. SLO Industries Limited (CD-1)**

#### **2.1 Contravention-I**

##### **Filing of False and Misleading Form II & III with ICSI IIP**

- 2.1.1 A misreporting was observed between the CIRP cost sheet submitted by Mr. C Ramasubramainam to the IA and the figures as contained in the minutes of the 6<sup>th</sup> and 18<sup>th</sup> CoC meeting. Mr. C Ramasubramainam submitted the fees of valuers for an amount of Rs. 9,28,680/- in the cost and fee disclosure forms, viz., Form II and Form III filed before the ICSI IIP of which he is a professional member. Whereas the fees of the valuers for the first and

second valuation amounted to the total of Rs. 6,15,640/- as approved by the CoC in 6<sup>th</sup> and 18<sup>th</sup> meeting, details of which are as under:-

Valuer fees - 1st Valuation - As approved in 6 <sup>th</sup> CoC meeting		
S.No.	Name of the Valuer	Amount (Rs.)
1	Mr. Muniyandi - Plant and Machinery	50,540
2	Mr. R Chandrakani - Plant and Machinery	40,000
3	Mr. Vivekanandan - Land and Building	88,500
4	Mr. Socrates - Land and Building	88,500
Total (i)		2,67,540
Valuer fees - 2nd valuation - As approved in 18 <sup>th</sup> CoC meeting		
S.No.	Name of the Valuer	Amount (Rs.)
1	Mr. Sri Hari - Land and Building	1,71,100
2	Mr. Socrates – Land and Building	1,77,000
Total (ii)		3,48,100
Grand Total (i+ii)		6,15,640

2.1.2 Accordingly, it was observed that there is a difference of Rs.3,13,040 in the fee of the valuers between the CIRP cost sheet submitted by Mr. C Ramasubramainam to IA, *viz a viz*, the Form II and Form III submitted by him before ICSI IIP.

2.1.3 Mr. C Ramasubramainam's response that the CIRP expenses except the going concern expenses were placed before the CoC and the suspended directors were not cooperating with him, and he had filed an application under Section 19 of the Code with the Hon'ble NCLT has not been found cogent and are evasive. Thus, it was observed that there had been misleading entries in the Form II and Form III filed with ICSI IIP, *vis a vis*, the CIRP cost sheet submitted by Mr. C Ramasubramainam. If at all the expenses have been incurred as disclosed in Forms II and III, the difference of Rs.3,13,040/- was paid to valuers without due approval/ ratification of CoC. This apart, the unexplained variation in costs disclosures raises doubt about incurring costs without taking due care and diligence on his part.

2.1.4 The misrepresentation of facts as observed is against the provisions of regulation 34A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) which obligates IP to disclose the IRPC Costs as may be required read with IBBI Circular No. IBBI/IP/013/2018 dated 12.06.2018, and it attracts several provisions of Code of Conduct with regard to activities of the insolvency professionals.

2.1.5 In view of the foregoing, the Board held, *prima facie*, view that Mr. C Ramasubramainam is in violation of section 208(2)(a) and (e) of the Code, regulation 34A of the CIRP Regulations read with IBBI circular No. IBBI/IP/013/2018 dated 12.06.2018, regulation 7(2)(a) and (h) of

the IBBI (Insolvency Professional) Regulations, 2016 (IP Regulations) read with clauses 2, 12, 14 and 25A of the Code of Conduct specified in the First Schedule of the IP Regulations.

**Submissions by the Mr. C Ramasubramainam.**

2.1.6 Mr. C Ramasubramainam submitted that during the CIRP period of the CD-1, he had appointed the valuers to carry out valuation exercise for the properties of the CD-1 and their fees amounting to Rs. 2,67,540/- was ratified in the 6<sup>th</sup> CoC meeting held on 15.06.2020 and the said amount was paid to the appointed valuers on 31.08.2020. It was further submitted that two more registered valuers were appointed to carry out the valuation of the Land and Building of CD-1 wherein the aggregate fee of Rs.3,48,100/- payable to the appointed valuers was ratified in the 18<sup>th</sup> CoC meeting held on 05.05.2021 and it was paid to them on 30.06.2021 after deducting necessary TDS.

2.1.7 Mr. C Ramasubramainam further submitted that while disclosing the fee payable to valuer in Form II filed with ICSI IIP, there was a difference of Rs.86,460 which is a typographical error. He submitted that instead of adding Rs.50,540 paid to Mr. Muniyandi, valuer of Plant and Machinery) and Rs. 40,000/- paid to Mr. R Chandrakani, valuer of Plant and Machinery totalling to Rs.90,540, the fees paid to Land & Building Valuers amounting Rs. 1,77,000 was added and included in disclosure. The tabular representation of the amount disclosed in Form II filed with ICSI IIP is as below: -

S.No.	Particular	Name of the Valuer	Form II		
			Disclosed in Form II	Correct Amount	Difference
1.	Fee payable to Valuer 1	Mr. Vivekanandan	88,500	88,500	0
2.	Fee payable to Valuer 1	Mr. Socrates	88,500	88,500	0
3.	Other Expenses on/for valuers	Mr. Muniyandi & Mr. R. Chandrakani	1,77,000	90,540	86,460
Total (i)			3,54,000	2,67,540	86,460

2.1.8 Mr. C Ramasubramainam further submitted that in Form III, the amount payable to the valuers was Rs. 6,15,640 which includes both 1<sup>st</sup> and 2<sup>nd</sup> valuation done during the CIRP period of CD-1 and was approved by the CoC. There is a difference in disclosure only as detailed above and the total of Form II and Form III is not the amount paid to the valuers i.e., 9,31,680/- (Rs. 3,54,000 + Rs. 5,77,680). Only Rs. 6,15,640/- was paid to the valuers. Considering the above, Rs. 3,13,040/- was never paid to the valuers and the difference was due to above stated reasons.

**Amount disclosed in Form III filed with ICSI IIP:**

S. No	Particulars	Name of the valuer (1st and 2nd Valuation)	Disclosed in Form III	Correct amount	Difference
1.	Fee Payable to Valuer 1	Mr. Muniyandi - Rs. 50,540/- (or) Mr. Socrates - Rs. 88,500/	50,540/-	88,500	-37,960
2.	Fee Payable to Valuer 2	Mr. R Chandrakani	40,000	40,000	0
3.	Fee Payable to Valuer 3	1. Mr. Muniyandi - Rs. 50,540/ 2. Mr. Vivekanandan - Rs. 88,500/ 3. Mr. Sri Hari - Rs. 1,71,100/ 4. Mr. Socrates - Rs. 1,77,000/	4,87,140	4,87,140	0
Total(ii)			5,77,680	6,15,640	-37,960
Grand Total (i+ii)			9,31,680	6,15,640	3,16,040

There is no intention of filing false or misleading information before ICSI IIP and all the payments made or with the approval of the COC and even a single rupee has not been overpaid.

**Analysis and Findings.**

2.1.9 The DC notes the submission of Mr. C Ramasubramainam that the fees amounting Rs. 2,67,540/- payable to the valuer(s) in 1<sup>st</sup> valuation round and as ratified by the CoC in the 6<sup>th</sup> meeting dated 15.06.2020 was paid to the appointed valuer(s) on 31.08.2020 and the same stands corroborated with the bank account statement annexed with the reply. The DC further notes the submission of Mr. C Ramasubramainam that the fees amounting Rs.3,48,100/- payable to the appointed valuers for 2<sup>nd</sup> valuation was ratified in the 18<sup>th</sup> CoC meeting dated 05.05.2021 and the said amount was paid to the appointed valuers on 30.06.2021 after

deducting necessary TDS and the same stands corroborated with the bank account statement annexed with the reply.

- 2.1.10 The DC notes the submission of Mr. C Ramasubramainam that such repeated deviations can be attributed to typographical is not acceptable; rather it has been due to careless attitude. However, misreporting involves no mala-fide intentions, hence DC is inclined to take a lenient view with a word of caution that such mistakes need to be avoided in future.

## 2.2 Contravention-II

### **Not Placing the budget for cost of operations of CD-1 as a going concern before CoC for approval/ratification.**

- 2.2.1 It was observed that CD-I was operated as a going concern during its CIRP, however, budget for cost of operations of CD-I was not placed before the CoC for ratification/ approval. The details of the same are as under :

Amount Not Ratified (Going Concern Charges)			
Electricity charges	Salary to Employees and Workmen	Telephone Expenses	Security Charges
26,90,61,466	4,42,63,064	2,10,329	8,84,000
Total- 31,44,18,859			

- 2.2.2 As provided in regulation 34 of the CIRP Regulations, the CIRP costs are to be fixed by the CoC. Clause 14 the Code of Conduct specified in the First Schedule of the IP Regulations mandates the insolvency professional not to act with mala fide or being negligent while performing his functions and duties. Clause 27 obligates the insolvency professional to disclose all the costs towards the IRPC costs to all relevant stakeholders. Therefore. Mr. C Ramasubramainam was under the duty to get the CIRP costs ratified from the CoC as mandated under Regulation 34 of the CIRP Regulations.
- 2.2.3 In view of the foregoing, the Board held, *prima facie*, view that Mr. C Ramasubramainam is in violation of 208(2)(a) and (e) of the Code, regulation 34 of the CIRP Regulations, regulation 7(2)(a) and (h) of the IP Regulations read with clauses 14 and 27 of the Code of Conduct specified in the First Schedule of the IP Regulations.

### **Submissions by Mr. C Ramasubramainam.**

- 2.2.4 Mr. C Ramasubramainam submitted that the budget for cost of operations of CD-1 as a going concern was explained by him in detail to the CoC at the 2<sup>nd</sup> CoC meeting held on 07.12.2019

and in 12<sup>th</sup> CoC meeting. The expenses related to business operations of CD-1 are updated to the sole CoC member time and again during the interactions during the CoC meetings.

2.2.5 He submitted that all the expenses incurred for going concern was ratified in the CoC. He also submitted that it is not mandatory to place a budgeted cost of operations or the variance analysis (Budgeted vs actual) of the Company under the provisions of the Companies Act, 2013 and also under Code. However certain Companies are keeping it before the Board as a healthy practice

2.2.6 Mr. C Ramasubramainam in his response further submitted that the final balance sheet and profit and loss account of CD-1 was not placed before CoC because there were some critical adjustment entries (which were also mentioned under an application filed before Hon'ble Adjudicating Authority under Section 19 of the Code, 2016) for which explanations were not given by suspended board of the CD and due to which accounts were not finalized. He submitted that, if he had received the explanations from the suspended Board of Directors, at the end of the finalization, all those operating expenses such as electricity charges, salaries, telephone charges which are on actual cost basis would have been placed before the CoC. Also, before appointing the security personnel, due approval was obtained from CoC and the same was paid as per the bank's empanelled rate.

### **Analysis and Findings.**

2.2.7 Perusal of CoC minutes of its 2<sup>nd</sup> and 12<sup>th</sup> meetings, apart from mentioning minor heads of expenditure, does not corroborate with the facts presented in para 2.2.1 above. Further, reference has been made the minutes of 12<sup>th</sup> CoC that some favourable judgement has been received from Hon'ble Madras High Court and further members were told that based on orders of Pollution Control Board there was stoppage in production activities due to suspension of EB. It is clear from these facts that CoC was neither apprised about status of CD as going concern nor expenses incurred in running it as going concern on regular basis by Mr. C Ramasubramainam. He was requested to make additional submissions regarding the electricity charges since most of the time, operations remained under suspension, it was necessary to get clarification whether electricity charges of about Rs. 27 crores relate to current essential charges or reflect past dues. Needless to add that as per scheme of the Code and regulations framed thereunder, the past dues are admitted as claims. Now since these details are not made available by Mr. C Ramasubramainam neither to CoC at any point of time nor to the DC when specifically being asked, it is clear dereliction of duties assigned to an IP under the Code.

2.2.8 Further, the Regulation 34 of the CIRP Regulations after amendment on 27.03.2018 stood as follows:

*“34. Resolution professional costs.*

*The committee shall fix the expenses to be incurred on or by the resolution professional and the expenses shall **constitute insolvency resolution process costs.***

*Explanation. - For the purposes of this regulation, “expenses” include the fee to be paid to the resolution professional, fee to be paid to insolvency professional entity, if any, and fee to be paid to professionals, if any, and other expenses to be incurred by the resolution professional.”*

The Code mandates the RP to keep the business of the CD as a going concern and provides that this going concern cost shall be part of the insolvency resolution process cost. As per regulation 34 CIRP Regulations, a RP is mandated to take approval of the CoC for all the expenditure incurred by the RP including to run the CD as a going concern. The above provisions cast a duty upon an IP to inform the CoC about the expenses being incurred by an IP. Since no evidence has been produced by Mr. C Ramasubramainam for intimating the CoC regarding above expenses, the DC upholds the contravention.

### **2.3 Contravention-III**

#### **Dubious Payment of salary to purported supporting staff**

- 2.3.1 It has been alleged in the FIR filed by CBI dated 14.11.2023 that Ms. Ramela was appointed as supporting staff (Company Secretary) with monthly remuneration of Rs. 1.50 lakh and she was paid a total of Rs.24.35 lakh. However, Ms. Ramela neither attended any work of the CD-I nor did she visit the factory premises of the CD-I during its CIRP. The above said remuneration received by Ms. Ramela was transferred to the bank accounts of his employees and relatives and were withdrawn in cash and handed over to her.
- 2.3.2 Mr. C Ramasubramainam’s response to IA’s notice is found to be vague and evasive and, thus, unsatisfactory. IA has observed, in its IR, that the nature of the service and the work that was to be undertaken by Ms. Ramela in providing support services was never disclosed in any of the CoC meetings. The active concealment of such vital information from CoC corroborates his conduct as alleged in the FIR. He was under obligation to maintain transparency with CoC with respect to the work undertaken from Ms. Ramela. Such act, omission and commissions on his part have direct bearing on his integrity and repute.
- 2.3.3 In view of the foregoing, the Board held, *prima facie*, view that Mr. C Ramasubramainam is in violation of section 208(2)(a) and (e) of the Code, regulation 7(2)(a) and (h) of the IP Regulations read with clauses 1, 2, 4, 12 and 14 of the Code of Conduct specified in the First Schedule of the IP Regulations.



### **Submissions by Mr. C Ramasubramainam.**

- 2.3.4 Mr. C Ramasubramainam quoted his response to the IA that CD-1 was a going concern and it manufactured Steel Billets with Furnace and rolling Mill. Mr. C Ramasubramainam in the 3<sup>rd</sup> CoC meeting held on 27.12.2019, informed the CoC that a support-services is required and a quotation of Rs. 1,50,000/- per month was received from an IP. The CoC comprising of Union Bank of India (Erstwhile Corporation Bank- Sole Financial creditor) had approved to avail the support services. Therefore, Ms. Ramela was appointed for support services as approved by the sole FC in the 3<sup>rd</sup> CoC meeting held on 27.12.2019. Meanwhile a Criminal OP was filed by the Suspended Director seeking directions from Hon'ble Madras High Court for a CBI preliminary enquiry and the Madras High Court ordered for the same. CBI officials have conducted a preliminary enquiry on the various allegations levelled against him by the complainant and registered a FIR.
- 2.3.5 Mr. C Ramasubramainam submitted that the support services were duly performed by Ms. Ramela and there is no necessity for her to visit the factory personally. The works assigned to her were duly done from offices remotely since the services did not warrant personal visits to the factory or office premises of the CD-1. Moreover, the employees deputed under such support services have visited the factory premises and performed the works in the factory for several days/months. Also, it was submitted that most employees who have worked for CD-1 under the support services also have disclosed their income while filing Income tax returns.
- 2.3.6 Mr. C Ramasubramainam reiterated his response before the IA stating that the nature of service and the work that was to be undertaken by the supporting professional were properly placed before the CoC for approval and after detailed deliberations only, the COC has approved the services. The nature of work and the work allocated was clearly indicated in the appointment letter and was disclosed to CoC. There is no concealment of any vital information before CoC and the CoC is well aware of the facts and issues.

### **Analysis and Findings.**

- 2.3.7 The DC notes the submission of Mr. C Ramasubramainam that the CoC in its 3<sup>rd</sup> CoC Meeting held on 27.12.2019 had asserted its approval for the receipt of services from the supporting professional. The relevant extract of the minutes of 3<sup>rd</sup> CoC Meeting is reproduced herein below: -

*“IRP also provided the quotation of support services from an Insolvency Professional for Rs.1,50,000/- per month. The matter was discussed at length and the IRP detailed about the resources taken for smooth operations of the Business. The Company being a going concern*

*and considering the volume of transactions, the COC after detailed discussions approved the quote offered for support services.*

*The Committee of Creditors accepted the proposal of IRP to act as RP and the CoC also provided its approval for the receipt of services from the supporting professional.*

...

*"RESOLVED FURTHER THAT the quote obtained from IRP towards support services from an Insolvency Professional for the amount of Rs.1,50,000 per month plus 18% GST be and is hereby approved and the bill will be raised to SLO Industries Limited, being a going concern and the same will be payable every month by the Corporate Debtor."*

- 2.3.8 The DC notes the above discussion before the CoC regarding appointment of support services by Mr. C Ramasubramainam. In lack of conclusive evidence, the charge of roundtripping of funds does not constitute part of the SCN. However, since the matter regarding transfer of remuneration paid to Ms. Ramela to the bank accounts of employees and relatives of the Mr. C Ramasubramainam is under investigation of CBI, the DC refrains from making any further comments at this juncture.

#### **In the matter of M/s. Padmaadevi Sugars Limited (CD-2)**

#### **2.4 Contravention-IV**

##### **Alleged inaction on the basis of forensic audit report**

- 2.4.1 It has been observed that Mr. C. Ramasubramaniam had appointed the forensic auditor during liquidation process and the forensic audit report was received on 06.03.2023. However, he has failed to file application for avoidance of transactions (at least till 29.01.2024, as mentioned in the investigation report) before the AA even though the report was available with him on 06.03.2023 and as observed from his response, he had already formed the opinion with regard to the fraudulent transactions.

- 2.4.2 In view of the foregoing, the Board held, prima facie, view that Mr. C Ramasubramainam is in violation of section 208(2)(a) and (e) of the Code, regulation 7(2)(a) and (h) of the IP Regulations read with clauses 13 and 14 of the Code of Conduct specified in the First Schedule of the IP Regulations.

##### **Submissions by Mr. C Ramasubramainam.**

- 2.4.3 Mr. C Ramasubramainam submitted that the erstwhile RP filed an application (MA/1332/2019) before AA seeking an appointment of forensic auditor. After he was appointed as Liquidator by the AA, he impleaded himself in the said application and also informed the Stakeholders'

Consultation Committee (SCC) that such relief cannot be asked, and it is the duty of the RP/Liquidator to appoint a forensic auditor and not a relief to be asked before AA.

- 2.4.4 The AA questioned on a particular hearing as to how this relief sought in the said application is maintainable and directed him to file an affidavit as to which applications filed by the RP the liquidator will be pursued and what are the applications which are to be withdrawn and accordingly, he filed an affidavit. Further, to the affidavit he appointed SPR & Co. for a forensic auditor, and the available documents were shared to the office of the forensic auditor and the forensic auditor team visited the factory premises and submitted various documents as asked by the forensic audit team and based on the documents submitted/available, the forensic auditor has conducted the audit.
- 2.4.5 He submitted that no delay happened by the forensic audit team or by him and considering the voluminous data necessary time was taken by the forensic audit team to complete the audit process. He submitted that there were no past employees available in the office of the CD-2 and all the records are stacked in the factory record room without any proper indexation. Considering the voluminous data available in the factory and no electricity facility inside the room it is quite a difficult to dig out the required data. He searched and somehow made index of all the available records which are stacked in three big rooms.
- 2.4.6 He submitted that erstwhile RP, Mr. M. V. Gangadharan, has never cooperated with them in providing documents or has not given proper handover of the same. Hence he along with the audit team visited the factory and searched the required documents on several occasions and we are however unable to take out many relevant information as there is no proper indexing maintained in the factory . The hard disks are also not in a retrievable condition and they spent quality days to take out the information from the computer systems and tried to retrieve the data from the systems with the help of our office system admin. Further the forensic audit team also retrieved certain from public portals and completed the audit process and submitted the report and shared the same to him on 06.03.2023.
- 2.4.7 He submitted that he is in the process of filing fraudulent application under section 66 /avoidance application for the CD-2. He is in the final stage of providing clarifications/ documents with the advocate office and the application will be filed shortly. There are few more attachments and supportive documents requested by advocate's office and we are in the final process of collating the same and will be filing the application on or before the end of February, 2024. He submitted that he has not done any favouritism to the suspended board or purposefully / not delayed the filing of section 66 application and it is because of the voluminous data and the accuracy needed on filing the application, the same is getting delayed.

### **Analysis and Findings.**

2.4.8 The DC observed that while Mr. C. Ramasubramaniam has provided explanations for the delay, the Board's concern regarding the substantial delay of over a year in taking action based on the forensic audit report is left unanswered by Mr. C. Ramasubramaniam.

2.4.9 The DC observed that the reasons cited for the delay, such as the volume of data and lack of cooperation from the erstwhile RP, may mitigate the situation to some extent in delay in concluding forensic audit but do not excuse the delay in taking relevant steps in filing PUF applications before the AA. Mr. C. Ramasubramaniam did not provide any plausible reason for delayed filing of avoidance applications which has not been filed till the date of personal hearing. The submission that he is still collating documents cannot be accepted when he has already completed the exercise of preparing index with forensic audit team. Such delay is bound to raise doubts on the intention of the IP for not following timelines. Therefore, it can be concluded that there was a substantial delay in taking appropriate steps of filing PUF applications as per the prescribed timelines of the Code. The DC upholds the contravention.

### **3. Order**

3.1 The code extends immense responsibilities to the professional in the Governance of the CD. Side by side it is beyond doubt that commercial wisdom rests with the CoC, hence as chairman of CoC he is responsible to actively involve CoC member in collective decision making. Particularly all decisions of commercial nature are to be with the affirmation of CoC. Further, being vigilant about avoidance transaction particularly during the twilight period is extremely important in fostering the objective of maximization of value. Therefore, the DC notes that contraventions with regards to not taking CoC in confidence on key financial decisions and non-action in filing of avoidance and fraudulent application even after receiving forensic audit report for a period of more than one year are key contraventions. Mr. C Ramasubramainam did not provide sufficient explanation to the above allegations even after being given additional opportunity by the DC. In view of the forgoing discussion, SCN, reply to the SCN, oral submission made by Mr. C Ramasubramainam, the DC finds Mr. C Ramasubramainam in contravention of section 208(2)(a) and (e) of the Code, regulation 34 of CIRP Regulations, regulation 7(2)(a) and (h) of IP Regulations read with clauses 13, 14, and 27 of the Code of Conduct specified in the First Schedule of IP Regulations.

3.2 The DC notes that orders have already passed in matter of Mr. C Ramasubramainam on earlier occasions. The details of which are as follows:

- a) order dated 20.02.2023 – direction to be careful and cautious while dealing with the matter under the Code and regulations therein;
- b) order dated 19.06.2023 – suspension of registration for a period of one year starting effectively from 19.07.2023;

- c) order dated 02.05.2024 - suspension of registration for a period of two year commencing on expiry of the suspension period imposed vide order dated 19.06.2023 which will effectively start from 20.07.2024;

Thus, the DC notes that registration Mr. C Ramasubramainam as an IP is currently suspended. The DC, in exercise of the powers conferred under section 220 of the Code read with regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 hereby suspends the registration of Mr. C Ramasubramainam for a period of one year which shall commence on the expiry of the period of suspension imposed on him *vide* earlier order of the DC dated 02.05.2024 .

- 3.3 The Company Secretaries Act, 1980 under Second Schedule requires that a company secretary must exercise due diligence and not be negligent in conduct of his professional duties. As matter relates to continued professional misconduct and Mr. C Ramasubramainam being a Company Secretary, the DC hereby directs the Board to forward this order along with the op-cited orders dated 19.06.2023 and 02.05.2024 DC orders to the Institute of Company Secretaries of India (ICSI) for any future course of action as may be deemed appropriate on his continued violation of professional ethics.
- 3.4 This Order shall come into force after expiry of 30 days from the date of its issuance.
- 3.5 A copy of this order shall be sent to the CoC/Stakeholders Consultation Committee (SCC) of all the corporate debtors in which Mr. C Ramasubramainam is providing his services, and the respective CoC/SCC will decide about continuation of existing assignment of Mr. C Ramasubramainam.
- 3.6 A copy of this order shall be forwarded to the ICSI Institute of Insolvency Professionals where Mr. C Ramasubramainam is enrolled as a member.
- 3.7 A copy of this Order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal.
- 3.8 Accordingly, the show cause notice is disposed of.

-sd/-

(Sudhakar Shukla)

Whole-Time Member

Insolvency and Bankruptcy Board of India

Dated: 18<sup>th</sup> June, 2024

Place: New Delhi