INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
(Disciplinary Committee)

No. IBBI/DC/351/2026 **09 November 2026**

ORDER

This Order disposes of the Show Cause Notice (SCN) No. IBBI/C/2024/01059/1812/1355 dated 11.09.2025, issued to Shri Venkata Sivakumar, who is an Insolvency Professional (IP) registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with Registration No. IBBI/IPA-001/IP-P00184/2017-18/10852 and a Professional Member of the Indian Institute of Insolvency Professionals of ICAI (IIIP-ICAI).

1. Background

1.1. The Corporate Insolvency Resolution Process (CIRP) of M/s The Jeypore Sugar Company Limited (Corporate Debtor/CD) commenced *vide* order dated 25.02.2019 passed by the National Company Law Tribunal, Chennai Bench (AA) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC/Code) on an application filed by M/s IDBI Bank Limited. Shri Venkata Sivakumar was appointed as Interim Resolution Professional (IRP) who was later confirmed as Resolution Professional (RP). The AA ordered the liquidation of the CD *vide* its order dated 29.05.2020 and Shri Venkata Sivakumar was appointed as the Liquidator. Later, Shri Venkata Sivakumar was replaced as the liquidator by the AA *vide* its order dated 01.07.2022 and Mr. Subburengan Hari Karthik was appointed as the Liquidator.

1.2. The Board received a complaint dated 18.01.2024 against Shri Venkata Sivakumar in the matter of the CD. The Board, in exercise of power conferred under Section 218 of the Code read with Regulation 7(1) and 7(2) of the IBBI (Inspection and Investigation) Regulations, 2017 (Investigation Regulations) *vide* order dated 07.02.2024 appointed an Investigating Authority (IA) to conduct the investigation on the issues raised by the complainant.

1.3. The IA in terms of Regulation 8(1) of the Investigation Regulations, served notice to Shri Venkata Sivakumar on 21.02.2024 and in response to the said notice Shri Venkata Sivakumar submitted partial reply on the same date. The IA again sought clarification *vide* an email dated 13.12.2024 on all the issues raised in the complaint. In response, Shri Venkata Sivakumar *vide* email dated 15.12.2024, stated that he had given all the required details in the form of recordings of the Stakeholders Consultation Committee (SCC) meetings. However, specific reply to the allegations raised in the complaint was not provided to the IA. The IA repeatedly requested Shri Venkata Sivakumar to provide his reply to all the allegations contained in the complaint, but in response Shri Venkata Sivakumar instead raised queries and questions to the Board and chose not to submit reply/comments on the allegations mentioned in the complaint. Constrained by his non-cooperative attitude and despite being provided multiple opportunities to submit his reply/comments on the allegations in the complaint, the IA, after considering his partial reply and material available on records, submitted the Investigation Report (IR) to the Board.

1.4. On perusal of the IR, the Board formed a *prima facie* view that Shri Venkata Sivakumar had contravened the provisions of the Code and the Regulations made thereunder and issued an SCN

to him on 11.09.2025. The SCN alleged contraventions of several provisions of the Code, the IBBI (Liquidation Process) Regulations, 2016 (Liquidation Regulations) and the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations). The reply of Shri Venkata Sivakumar to the SCN was received by the Board on a piecemeal basis on 12.09.2025, 13.09.2025, 15.09.2025 and 17.09.2025.

1.5. The SCN and the replies of Shri Venkata Sivakumar to the SCN were referred to the Disciplinary Committee (DC) for disposal. Shri Venkata Sivakumar availed an opportunity of personal hearing before the DC on 12.08.2026 through virtual mode. Shri Venkata Sivakumar provided additional written submissions on 11.08.2026 and 12.08.2026 which was also placed before the DC for consideration.

2. Examination of Preliminary Objections raised by Shri Venkata Sivakumar.

2.1. Locus of IDBI Bank as complainant.

2.1.1 Shri Venkata Sivakumar submitted that IDBI Bank had no locus standi as a complainant as it was not a member of the stakeholders' consultation committee, owing to its failure to surrender its security interest. He further submitted that IDBI Bank did not obtain prior permission from the AA before ordering any enquiry, which was a serious irregularity. Shri Venkata Sivakumar submitted that he had requested a copy of the E&Y report, but it had not been provided, making it impossible for him to address specific details, particularly as the vouchers were in the possession of the new liquidator.

Analysis and Findings of the DC.

2.1.2 The DC observes that Section 217 of the Code as quoted below is unambiguously clear:
"Any person aggrieved by the functioning of an insolvency professional agency or insolvency professional or an information utility may file a complaint to the Board in such form, within such time and in such manner as may be specified."

2.1.3 Further, Regulation 2(1)(j) of the IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017 provides that "'stakeholder' means *a debtor, a creditor, a claimant, a service provider, a resolution applicant and any other person having an interest in the insolvency, liquidation, voluntary liquidation, or bankruptcy transaction under the Code."*

2.1.4 Whether or not IDBI Bank relinquished its security interest, it remains a secured creditor of the CD and hence has an interest in the ongoing liquidation process of the CD. Hence, it is covered under the definition of the stakeholder and has locus to file the complaint. Whether or not IDBI Bank obtained the permission of the AA before getting the forensic audit conducted by E&Y has no bearing on the statutory power of the Board to order an investigation on a complaint. Moreover, the DC notes that the copy of the E&Y report was provided to Shri Venkata Sivakumar by the IA on 16.12.2024 and Shri Venkata Sivakumar submitted his comments on the same on 23.01.2025.

2.2. **Recording of reasons before ordering investigation.**

2.2.1. Shri Venkata Sivakumar submitted that it was mandatory under Sections 218 and 219 of the Code that reasons be recorded before ordering an investigation, which was a condition precedent, and that the action of the Board in ordering the investigation without recording reasons is void ab initio. He also submitted that the RTI reply provided by the Central Public Information Officer of the Board made it clear that reasons for ordering the investigation were not recorded, which was *sine qua non*.

Analysis and Findings of the DC.

2.2.2. Section 218(1) of the Code provides as follows:

"Where the Board, on receipt of a complaint under Section 217 or has reasonable grounds to believe that any insolvency professional agency or insolvency professional or an information utility has contravened any of the provisions of the Code or the rules or regulations made or directions issued by the Board thereunder, it may, at any time by an order in writing, direct any person or persons to act as an investigating authority to conduct an inspection or investigation of the insolvency professional agency or insolvency professional or an information utility."

2.2.3. Accordingly, under Section 218(1) of the Code, the Board may order an investigation on either of two independent grounds. The first is the receipt of a complaint under Section 217 and the second is where the Board has reasonable grounds to believe that an insolvency professional has contravened the provisions of the Code. Where a complaint has been received, the complaint itself forms the basis for ordering the investigation. Neither Section 218 nor the Regulations made thereunder require the Board to record reasons before ordering an investigation.

2.2.4. The DC notes that in the present case, the Board had received a complaint dated 18.01.2024 from IDBI Bank Limited and thereafter appointed the IA through an order in writing dated 07.02.2024. The investigation was therefore validly ordered under Section 218(1) of the Code. The said order itself records that the Board had reasonable grounds to believe that Shri Venkata Sivakumar had contravened the provisions of the Code or the regulations made thereunder, and specifies the allegations contained in the complaint dated 18.01.2024 as the scope of the investigation. Further, the RTI reply dated 23.04.2024 relied upon by Shri Venkata Sivakumar does not state that no reasons were recorded. It states that no minutes of correspondence of officers or of a Board meeting exist on the subject, and furnishes the file noting on the basis of which the investigation was ordered. In any case, since the law does not require reasons to be recorded separately, the absence of such reasons would not vitiate the investigation. The DC accordingly finds no merit in the submission.

2.3. **Failure to Consider Material Evidence.**

2.3.1. Shri Venkata Sivakumar alleged that the material furnished by him, including the minutes and video recordings of the SCC meetings, were with malafide intent ignored and not examined, especially as proceedings initiated by him were pending against senior officials of the Board. He also submitted that every action taken by him was with the knowledge, approval and appreciation of the stakeholders.

Analysis and Findings of the DC.

a) The DC notes that Shri Venkata Sivakumar had filed the following proceedings against the officials of the Board, with respect to the SCN dated 03.07.2023, which had been disposed by the respective DC *vide* order dated 09.04.2024. Crl. M.P. No. 1222 of 2025 filed before the XVIII Metropolitan Magistrate, Saidapet, Chennai to take cognizance against the officers of the Board for offences under Sections 166 and 219 read with Section 120B of the Indian Penal Code, 1860, for not recording any reasons for ordering investigation under Sections 217/218 of the Code. The complaint was dismissed under Section 226 of BNSS vide order dated 01.04.2026 observing that non-recording of reasons for directing an investigation, does not make out a cognizable offence. He has further filed CRLMP/4611/2026 for recall of order dated 01.04.2026 which was returned with the remark *"Crlmp. 1222/2025 was dismissed by this court in 01-04-2026 upon consideration of case records and accordingly this petition is not maintainable before this court. Hence returned."*

b) Contempt Case (AT) No.5/2023 in (CA (AT) (CH) (Ins) No.302/2021) was filed on the ground that SCN dated 03.07.2023 was issued in violation of the stay order dated 03.12.2021 passed by Hon'ble NCLAT in CA(AT)(Ins) 302/2021. The DC notes that the said stay order related only to the order of the NCLT dated 17.11.2021, whereas the earlier SCN dated 03.07.2023 referred to the order dated 01.07.2022 passed by the NCLT in IA/815/IB/2020, on which there was no stay.

2.3.2. The DC notes that the mere filing of the above proceedings by Shri Venkata Sivakumar against the officials of the Board does not establish any bias or malafide in the present proceedings. The material furnished by him was examined by the IA and has also been independently considered by the DC in this Order.

2.4. **Disregard of Judicial Orders.**

2.4.1. Shri Venkata Sivakumar submitted that the following orders had been completely disregarded by the Board:

a) The Hon'ble Supreme Court's Order in CA/1614/2023, which set aside all adverse findings against him.

b) Pending contempt proceedings before the Hon'ble NCLAT in Contempt Petition No. 5 of 2023.

c) The stay order in WP No. 12409 of 2024 against the order dated 09.04.2024, wherein he had already been held guilty

d) The Hon'ble Division Bench of the Madras High Court in WA No. 218 of 2024, which directed that issues be considered independently in accordance with law.

2.4.2. Shri Venkata Sivakumar provided the judgement of the Hon'ble Supreme Court in Civil Appeal No. 1614 of 2023, filed against the order of Hon'ble NCLAT, upholding the order of the NCLT replacing Shri Venkata Sivakumar as the Liquidator of the CD, whereby all the adverse findings

recorded by the AA and the Hon'ble NCLAT were set aside. He submitted that the in the previous DC order dated 09.04.2024, the DC had already considered these issues and that the operation of the said DC order had been stayed by the Hon'ble Madras High Court in WP/12409/2024. He further submitted that the Hon'ble High Court of Madras, in W.P. No. 42727 of 2025, had directed the DC to independently adjudicate the issues on its own merits and had permitted Shri Venkata Sivakumar to raise all the aforesaid issues.

Analysis and Findings of the DC.

2.4.3. The DC has examined the judicial orders relied upon by Shri Venkata Sivakumar and observes that none of them stays, bars or has any bearing on the present proceedings, for the reasons set out below.

a) **Civil Appeal No. 1614 of 2023:** The Hon'ble Supreme Court, vide order dated 22.10.2024, had set aside the adverse findings recorded in the order of the AA dated 01.07.2022 and the judgment of the Hon'ble NCLAT dated 20.12.2022 only in view of his statement that he did not wish to continue as the Liquidator, without going into the merits. Further, the present SCN does not rest solely on the findings of the AA in its order dated 01.07.2022. The reference to the said order dated 01.07.2022 is made only for the fact of his replacement and the date of the upload of the order on website of NCLT.

b) **Contempt Case (AT) No. 5 of 2023:** The contempt case relates to the earlier SCN dated 03.07.2023. The interim stay dated 03.12.2021, contempt of which was alleged by Shri Venkata Sivakumar, stood vacated when Company Appeal (AT) (CH) (Ins) No. 302 of 2021 was dismissed by the Hon'ble NCLAT on 16.01.2024. **W.P. No. 12409 of 2024:** The interim stay dated 06.06.2024 operates only on the earlier DC order dated 09.04.2024 passed on the earlier SCN. The grounds on which it was granted, namely that the order was passed by a single Whole Time Member and that Regulation 34(2) of the Liquidation Regulations had been deleted, does not bar the present proceedings.

c) **W.A. No. 218 of 2024:** Hon'ble High Court of Madras vide its judgment dated 27.03.2025 in W.A. No. 218 of 2024 dismissed the writ appeal relating to the earlier SCN dated 03.07.2023. The writ appeal became infructuous as the order dated 09.04.2024 was passed by the DC disposing the SCN dated 03.07.2023 . The W.A. No. 218 of 2024 has no bearing on the instant disciplinary proceedings.

d) **W.P. No. 42727 of 2025:** Shri Venkata Sivakumar had also challenged the instant SCN dated 11.09.2025 before the Hon'ble High Court of Madras in W.P. No. 42727 of 2025. The Hon'ble High Court *vide* its order dated 25.11.2025 disposed of the writ petition observing that without filing a reply to the show cause, preferring the writ petition is not sustainable The Hon'ble High Court granted liberty to Shri Venkata Sivakumar to canvass all the points before the Board.

3. Alleged Contraventions in the SCN, submissions of Shri Venkata Sivakumar, analysis and findings of the DC

3.1. Unauthorized withdrawal of Rs. 70 Lakh

3.1.1. It was observed that Shri Venkata Sivakumar was removed as the Liquidator in the matter of liquidation process of the CD *vide* the AA's order dated 01.07.2022. It was also observed from said order that Shri Venkata Sivakumar was personally present during the hearing. However, despite being aware of his removal as liquidator, Shri Venkata Sivakumar transferred an amount of Rs. 70 lakh from the account of the CD to his own name.

3.1.2. Subsequently, the AA *vide* its order dated 18.02.2025 directed Shri Venkata Sivakumar to return the said amount of Rs.70 lakh to the account of the present liquidator. The relevant extract of the directions of AA is as follows:

"...R2 is directed to close the fixed deposit and provide the sum of Rs. 70 lakh along with interest to the account of the liquidator within two weeks and Applicant liquidator is directed to provide the account number to ICICI Bank. Further R1 is directed to file any claim relating to the fee of former liquidator before the current liquidator and the liquidator is directed to verify the claim and pay the same within two weeks."

[Note: R1 here is Shri Venkata Sivakumar and R2 here is ICICI Bank]

3.1.3. In his partial submission to the IA, Shri Venkata Sivakumar submitted that he was in charge of the liquidation process till 13.07.2022 and the order directing his replacement was uploaded on 06.07.2022 giving 7 days' time for handing over the charge. It was, however, observed by the Board that the order dated 01.07.2022 was uploaded on 05.07.2022 and the said transfer of money took place on 05.07.2022 as per the complainant. The order dated 01.07.2022 also mentioned about the presence of Shri Venkata Sivakumar in the proceedings that took place on 01.07.2022. It was, thus, noted by the Board that Shri Venkata Sivakumar attempted to mislead the IA by submitting that the order was uploaded on 06.07.2022 whereas it was uploaded on 05.07.2022.

3.1.4. In view of the above, the Board held the *prima facie* view that Shri Venkata Sivakumar had contravened Sections 208(2)(a) and (e) of the Code, Regulation 7(2)(h) of the IP Regulations read with Clauses 1,2, 12 and 14 of the Code of Conduct contained in the First Schedule of the IP Regulations (hereinafter referred to as "Code of Conduct").

Submissions by Shri Venkata Sivakumar.

3.1.5. Shri Venkata Sivakumar submitted that the AA, in the matter of the application filed by IDBI Bank, had reserved order on 22.03.2022, noting that a stay was in operation by the Hon'ble Madras High Court in a connected matter. However, the AA *vide* order dated 01.07.2022 removed him as Liquidator which was neither listed nor pronounced in the open court. The same was uploaded only after he addressed a letter dated 06.07.2022 to the Registry seeking clarity. As per records, he remained the liquidator in charge till 13.07.2022, as also reflected in the records of the IBBI and communication to the new Liquidator. As per Regulation 7 of the NCLT Rules, 2016, orders must be pronounced in open court and duly communicated. In absence of

any such pronouncement or communication, he was rightfully in charge till 13.07.2022, and his actions during this period were legally valid.

3.1.6. Regarding the issue of the order mentioning 'appellant in person', implying that he was present during pronouncement, he responded that the said mention in the order referred to the hearing dated 22.03.2022, when arguments were advanced. This was a clear misreading. No record or cause list showed that the order was pronounced in his presence on 01.07.2022.

3.1.7. Shri Venkata Sivakumar further submitted that on 05.07.2022 he filed an application bearing no. IA/802/2022for seeking appropriate directions with respect to liquidation costs incurred and handling of Rs.70 lakh amount. The said amount was transferred to a fixed deposit account under his name as Liquidator (in fiduciary capacity) pending resolution of liquidation cost disputes. He submitted that there was no withdrawal of money for his personal use and the amount always remained traceable, subject to adjudication. He further submitted that the said amount represented liquidation expenses, including fees for appearances, expert opinions and other expenses, supported by minutes of the JLF meetings, invoices and vouchers, and that he relied upon the expert legal opinion obtained in this regard.

3.1.8. He further submitted that the newly appointed liquidator had frozen account debit. Further, the AA later passed an order directing ICICI Bank to transfer the said Rs.70 lakh to the CD's account. Further, the AA directed the new liquidator to verify and settle his claims within two weeks and also initiated contempt proceedings against the delay and actions obstructing the Interlocutory Application filed before it. Shri Venkata Sivakumar further submitted that the AA didn't make any observation that the amount was unauthorizedly withdrawn. In fact, the AA directed the new liquidator to verify and settle the claim within two weeks, thereby acknowledging a pending adjudication of the claim.

3.1.9. Shri Venkata Sivakumar submitted that it was clearly evident from IA/2353/2024 that the funds were with ICICI Bank. He submitted that as per Regulation 2A and Regulation 44 of the Liquidation Regulations, the liquidator was empowered to set aside liquidation costs before distributing the proceeds. The transfer was made to a fixed deposit under his custodial control, not a personal account, to secure the funds pending the adjudication of IA/802/2022. Shri Venkata Sivakumar submitted that this act was in line with his fiduciary responsibility and did not amount to misappropriation or unauthorised withdrawal. Further, contempt proceedings were initiated in relation to the delay and freezing of funds by the successor liquidator, not against him. He submitted that he voluntarily filed IA/802/2022 seeking the approval of the AA, even though such approval was not required under Regulation 31A. He stated that his stand was vindicated by the order of the AA in IA/2353/2024, wherein the new Liquidator was directed to verify his claim.

3.1.10. He further submitted that Section 35 of the Code empowered the Liquidator to take custody and control of all assets, settle claims, and meet liquidation costs. Regulations 31 and 31A of the Liquidation Regulations provided that costs incurred with SCC deliberation and expert advice are valid liquidation costs. Further, Regulations 42 to 44 of the Liquidation Regulations provide that distribution shall not commence until liquidation costs are met.

Analysis and Findings of the DC.

3.1.11. The DC notes that in the instant alleged contravention there are two issues involved. The first issue relates to the allegation regarding attempt of Shri Venkata Sivakumar to mislead the Investigating Authority by submitting before it that the order was uploaded on 06.07.2022 whereas it was uploaded on 05.07.2022. The second issue relates to allegation of transfer of Rs.70 lakh from the account of the CD by Shri Venkata Sivakumar.

3.1.12. With respect to the first issue, the DC notes that the cause list for 01.07.2022 appears on the website of the AA as follows:

NCLT Bench Court: Chennai Bench Court-II | Start Date: 07/01/2022 (E.g.- MM/DD/YYYY) | End Date: 07/02/2022 (E.g.- MM/DD/YYYY) | Search | Reset

S.No	Title	Court	No. of Entries	Date	Documents
1	CAUSE LIST FOR COURT HALL-II (CHENNAI BENCH) 01.07.2022	Chennai Bench Court-II	18	01/07/2022	View
2	SUPPLEMENTARY LIST- PRONOUNCEMENT OF ORDER (01.07.2022)	Chennai Bench Court-II	24	01/07/2022	View

3.1.13. In the cause list, the serial no. 24 appears as follows:

NATIONAL COMPANY LAW TRIBUNAL
CHENNAI
DIVISION BENCH (Court II)

(The Video Conferencing in NCLT, Chennai will be held through Cisco Webex)

Cisco Webex Link : https://ncltchn.webex.com/meet/chennainclt2 — Cisco Webex Meeting ID: 2519 332 8152

CORAM: JUSTICE (RETD.) S. RAMATHILAGAM, MEMBER (JUDICIAL)
SHRI B. ANIL KUMAR, MEMBER (TECHNICAL)

DATE : 01-07-2022 (Friday)
TIME : 1.00 P.M

S No	CP/CA No	IA/MA No	Section	Name of Parties	Name of counsel for Petitioner / Applicant	Name of counsel for Respondent	Name of IRP/ RP/ Liquidator	Remarks
PRONOUNCEMENT OF ORDERS								
24	CP/1307/IB/2018	IA/815/IB/2020	Sec 60(5) of IBC 2016	IDBI Bank Ltd VS V Venkata Sivakumar M/s The Jeypore Sugar Co Ltd	Varun Srinivasan	V Venkata Sivakumar		

3.1.14. Further, the said order was uploaded on the website of the AA on 05.07.2022, as reflected in the Case Proceeding tab of the NCLT website as follows:



Filing No.	Party Name	Registration No.
330511800708202O	IDBI BANK LTD VS V VENKATA SIVAKUMAR LIQUIDATOR THE JEYPORE SUGAR COMPANY LTD	IA(I.B.C)/815/CHE/202

Current Details

Party Details

Case Disposed Details

Case Proceeding Details

S.No.	Bench No. / Court No.	Listing Date	Listing Purpose	Action Taken	Next Listing/ Disposal Date	Next Listing Purpose	Order Upload Date	Status	Orders
1	Chennai / 2	01-07-2022	List for pronouncement		07-01-2021		05-07-2022	Dispose	Interim Order
2	Chennai / 2	01-07-2022	List for pronouncement		01-07-2022		05-07-2022	Dispose	Interim Order

3.1.15. In light of the facts presented in above paragraphs, the DC finds the averments of Shri Venkata Sivakumar that there was no prior notice of pronouncement or listing on 01.07.2022 and that the order dated 01.07.2022 was not uploaded or made available until after 06.07.2022, are not tenable. The DC, therefore, finds that by stating before the IA that the order dated 01.07.2022 was uploaded on 06.07.2022, when it had in fact been uploaded on 05.07.2022, Shri Venkata Sivakumar made an incorrect and misleading statement to the IA.

3.1.16. With respect to the second issue regarding transfer of Rs.70 lakh by Shri Venkata Sivakumar from the account of the CD, the DC notes that the allegation in the instant SCN is not about the validity of the liquidation cost incurred by the Liquidator and therefore the DC is not going into the question as to whether the costs incurred were after deliberation with the SCC, or whether seeking expert advice would come under liquidation cost or not. Further, the DC finds that the requirement under Regulations 42 to 44 of the Liquidation Regulations that distribution shall not commence until liquidation costs are met does not give right to any Liquidator to transfer any amount to an account in his own name and that too after his replacement as the Liquidator. Further, the DC notes that Regulation 2A and Regulation 44 of the Liquidation Regulations do not specifically give power to a Liquidator to set aside liquidation costs and transfer it to his own account before distributing the proceeds to the stakeholders.

3.1.17. The DC further observes that the chronology of the events, as tabulated below, raises doubt about the bonafide of the transfer made by Shri Venkata Sivakumar:

Date	Events
01.07.2022	Order passed by the AA appointing new Liquidator in place of Shri Venkata Sivakumar.
05.07.2022	• Order dated 01.07.2022 was uploaded on the portal of the AA. • Email was sent by Shri Venkata Sivakumar to The Secretary, NCLT stating that the order dated 01.07.2022 was passed by the Hon'ble Technical Member on his last day at 3:00 P.M. without listing the same in the primary cause list.

	• Transfer of Rs.70 lakh by Shri Venkata Sivakumar to a Fixed Deposit account under his name as Liquidator.

3.1.18. The DC notes that Shri Venkata Sivakumar has not denied the transfer of Rs.70 lakh to a fixed deposit in his name as Liquidator. Instead, his attempt is to justify it by quoting provisions of Liquidation Regulations out of context. The DC observes that even if it is assumed that the copy of the order dated 01.07.2022 was not available to Shri Venkata Sivakumar till 05.07.2022, still he was aware of the outcome of the pronouncement, as is evident from his email dated 05.07.2022 at 11:40 hours to the Secretary, NCLT, Principal Bench, which reads as follows:

"The Hon'ble Technical Member of Chennai Bench - II reserved the matter on 22-03-2022 saying in the open court when the petitioner's counsel repeatedly pleaded for keeping the petition alive that "IA/815/2020 has become infructuous because of the matter being solved by IBBI and fresh AFA was granted further an Interim Stay was granted by Hon'ble Madras High Court"

The order was pronounced on the last day of the Hon'ble Technical Member at 3.00 p.m. without listing the same in the primary cause list.

Out of 10 items reserved for orders on 22-03-2022 in the batch petitions, only this was pronounced leaving the others for further fresh hearing.

However, I am told the pronouncement was opposite, till date the order is not uploaded and I am told just now that the Judicial Member is yet to sign.

The news of removal has spread widely and I am finding it extremely difficult to manage the adverse impact. I need your kind reply as this will be one of the grounds for relief before Hon'ble NCLAT."

Thus, despite being aware that the pronouncement on the application for his replacement as Liquidator was not favourable to him, he transferred Rs.70 lakh belonging to the CD to a fixed deposit in his name on the same date. Such conduct casts a shadow on the bonafide of transfer of Rs.70 lakh effected by Shri Venkata Sivakumar.

3.1.19. The DC further notes that IA No. 802(CHE)/2022 filed by Shri Venkata Sivakumar against IDBI Bank Limited and three others sought directions with respect to the liquidation costs and the handling of the amount of Rs.70 lakh. The said application was adjourned sine die by the AA on 10.03.2023, with liberty to re-agitate the matter after disposal of the appeal against his replacement. The appeal filed by him was dismissed by the Hon'ble NCLAT on 20.12.2022 as devoid of merits, and the Hon'ble Supreme Court disposed of the further appeal on 22.10.2024 after recording that Shri Venkata Sivakumar was not interested in continuing as the Liquidator of the CD. Hence, these proceedings have no bearing on the issue alleged herein. Further, mere filing of IA/802(CHE)/2022 seeking directions, does not by itself, authorise Shri Venkata Sivakumar to transfer the funds of the CD before any direction was issued by the AA.

3.1.20. The DC further notes that IA(IBC)/2353/CHE/2024 was filed by the new Liquidator stating that former liquidator created fixed deposit of Rs.70 lakh out of the funds of the CD. The AA vide

order dated 18.02.2025 found merit in the argument that the money belonged to the estate of the CD and therefore former liquidator had no authority to open a separate bank account and directed to close the fixed deposit and transfer the said Rs.70 lakh along with interest to the account of the new Liquidator. Shri Venkata Sivakumar was directed to file any claim relating to his fee before the current liquidator and the current liquidator was directed to verify the claim and pay the same within two weeks.

3.1.21. The DC further notes that Shri Venkata Sivakumar had filed contempt petition against the new Liquidator for non-compliance of the AA's order dated 18.02.2025. The same was dismissed on 11.09.2025 noting as follows

"The counsel for the Respondent stated that he has complied with the order wherein the separate account of the liquidator was brought to the liquidators account and the claim for the former liquidator is also examined and email dated 28.06.2025. Therefore the appellants contention of non-compliance with orders of this court doesn't exist and the respondent also filed counter on 14.07.2025. In view of the above we do not find any merit in this application accordingly dismissed."

3.1.22. The DC notes that the above proceedings do not have any bearing on the disposal of the instant SCN. On the contrary, the AA vide order dated 18.02.2025 had accepted the contention that the former liquidator had no authority to open a separate bank account and transfer the amount belonging to the CD.

3.1.23. The DC also notes that the fact that the amount was placed in a fixed deposit and that the AA directed its restoration does not, by itself, regularise the act of transferring the funds when Shri Venkata Sivakumar was aware that he had been replaced as Liquidator. An insolvency professional must maintain integrity by being honest, straightforward, and forthright in all professional relationships. An IP cannot misrepresent any facts or situations and should refrain from being involved in any action that would bring disrepute to the profession. He must not conceal any material information or knowingly make a misleading statement to the Board and the AA.

3.1.24. In light of above discussion, the DC holds that Shri Venkata Sivakumar has contravened Section 208(2)(a) and (e) of the Code, Regulation 7(2)(h) of the IP Regulations read with Clauses 1, 2, 12 and 14 of the Code of Conduct.

3.2. **Failure to appoint a second valuer and exclusion of asset of CD in the Asset Memorandum.**

3.2.1. Regulation 35(2) of the Liquidation Regulations states that in cases not covered under sub-regulation (1) or where the liquidator is of the opinion that fresh valuation is required under the circumstances, he shall within seven days of the liquidation commencement date, appoint two registered valuers to determine the realisable value of the assets or businesses under clauses (a) to (f) of Regulation 32 of the Liquidation Regulations, of the CD. It was observed that Shri Venkata Sivakumar got fresh valuation of Land & Building and Plant & Machinery conducted during the liquidation process of the CD. However, apparently, Shri Venkata Sivakumar did not appoint the two valuers for each asset class, as required under Regulation 35(2) of the

Liquidation Regulations. The Hon'ble NCLAT in paragraph 126 of its order dated 16.01.2024 noted this. In the absence of specific reply by Shri Venkata Sivakumar to the various issues raised in the complaint, the IA was constrained to hold from the material available on record that Shri Venkata Sivakumar failed to appoint a second valuer for each asset class i.e. for Land & building and Plant & Machinery.

3.2.2. Further, it was observed from the order of Hon'ble NCLAT dated 16.01.2024 that the Raygada property was excluded from the valuation. The Hon'ble NCLAT *vide* its order dated 16.01.2024 observed as under:

"140. To be noted, merely because in respect of the 'Title of the property', if a 'Corporate Debtor 'has no valid or any marketable title, ipso facto, the 'value of the property' cannot be described as Zero. No wonder, the Liquidator, holding the 'Liquidation Estate', in the interest and for the benefit of 'stakeholders', is to take into consideration as to which/what are all the properties? do form part of the 'Liquidation Estate'. By adhering to the ingredients of Section 36(3) of the I&B Code, 2016, the 'Registered Valuers', are to 'value' the property.

141. In the instant case, the Erstwhile Liquidator had not obtained the valuation from the second valuer and that the liquidation value was arrived at only by one value. Also that the erstwhile liquidator had gone for a fresh valuation which clearly points out that Regulation 35(2) of IBBI (Liquidation Process) Regulations, 2016 was not followed. The stakeholders 'plea/request to go for a fresh set of valuations was not acceded to by the Erstwhile liquidator."

3.2.3. As per Section 36(3)(e) of the Code, the liquidation estate shall comprise all assets which shall also include the assets subject to the determination of ownership by the court or authority. However, it was observed that the Raygada property was not included in the liquidation estate of the CD as the same was valued at zero merely by reason that the asset was under *"lis"* which was prima facie a contravention of Section 36(3)(e) of the Code. The relevant extract of observations of the Hon'ble NCLAT in this regard is as under:

"125. The Erstwhile Liquidator, who had filed the Asset Memorandum on 21.09.2020, had not included the 'Raygada Property Assets' but arrived at a 'realisable value' of 217.52 crore.

126. The valuation of the Raygada Property with a market value of more than Rs. 1000 crore as mentioned by the Liquidator/7th Respondent was valued at Rs. Zero by the erstwhile liquidator without adhering to the mandatory requirement of Regulation 35 of IBBI (liquidation process) Regulations, 2016. Even the second value report secured by the 7th Respondent / liquidator does not exhibit the compliance of the Regulations because of the fact that in the instant case the liquidator / 7th Respondent had only obtained one Report on the plant and machinery and another report on the land and building which is in negation of the procedure as specified under the Regulations. In short, the said valuation was made, without including a vital asset of the Corporate Debtor.

128. In reality, the valuer in the initial report had assessed the value of Raygada lands to be Rs.1087.98 crore, later based on the information furnished by the 7th Respondent / liquidator and resting upon the opinion furnished by the Learned Advocate, the liquidator came to the conclusion that the value of the Raygada lands should be decided as zero. Resultantly, based on

the opinion of advocate, coming to the zero valuation was not approved by the Committee of Creditors /Stakeholders Consultation Committee.

130. A cursory glance of Section 36(3)(e) of the Code clearly exhibit that the Assets subject to the determination of ownership by the Court or authority shall form part of the Liquidation Asset, meaning thereby inclusive of the 'Lands of the Corporate Debtor at Raygada."

3.2.4. It was noted from the above-stated observations of the Hon'ble NCLAT that Rayagada property of the CD was not included in the asset memorandum and the only one valuer appointed by Shri Venkata Sivakumar for land and building category valued the said asset at zero on his advice.

3.2.5. In the absence of Shri Venkata Sivakumar's reply to the allegation, the Board held *prima facie* view that, his conduct in not including the Rayagada property of the CD in the asset memorandum and appointing only one valuer for each asset class, was in contravention of Sections 36(3)(e), 208(2)(a) and (e) of the Code, Regulations 35(2) of the Liquidation Regulations, Regulations 7(2)(a) and (h) of the IP Regulations read with Clauses 14, 18 and 19 of the Code of Conduct and Section 230(2) of the Companies Act.

Submissions by Shri Venkata Sivakumar.

3.2.6. Shri Venkata Sivakumar submitted that there was no need for referring to the order in IA/815/2020, when the Hon'ble Supreme Court had already set aside all adverse findings. He also submitted that there was no necessity of referring to the order of the Hon'ble NCLAT in CA/302/2021, which had already been considered in the earlier investigation report, on which the Hon'ble Madras High Court had granted a stay.

3.2.7. Shri Venkata Sivakumar submitted that both valuers were appointed simultaneously after consulting the SCC. The JLF also actively participated in the deliberations, as confirmed in paragraph 3 of the order in IA/815/2020. The first valuer conducted the inspection in time, but immediately thereafter, the Covid-19 lockdown was announced, preventing the second valuer from proceeding. Meanwhile, the compromise scheme under Section 230 was to be completed within 90 days from 01.06.2020.

3.2.8. He further submitted that there were more than seven resolution applicants who were willing to negotiate for a higher price. However, IDBI Bank filed IA/255/2021 raising objections on issues which had already been deliberated upon and approved by them. He submitted that the IA selectively relied on portions of the orders, refused to examine the minutes of the SCC and JLF meetings and merely reproduced stray observations from orders which might itself be based on an erroneous appreciation of facts.

3.2.9. With regard to the exclusion of the Rayagada property, Shri Venkata Sivakumar submitted that it was the decision of the CoC to value the Rayagada land at nil value after he had got it valued at Rs.1078 crore, because the land belonged to the Government of Odisha (OLR proceedings were ongoing), and that it was IDBI Bank which directed the appointment of another legal expert to give an opinion, pursuant to which he conducted the affairs accordingly.

Analysis and Findings of the DC.

3.2.10. The DC notes that in response to the instant alleged contravention, Shri Venkata Sivakumar raised two preliminary objections which need to be addressed first. The first objection is that the Board ought not to have relied on the order of the AA in IA/815/2020, since the Hon'ble Supreme Court had set aside all the adverse findings recorded against him. The DC notes that the AA, vide order dated 01.07.2022 in IA/815/2020, had replaced Shri Venkata Sivakumar as the Liquidator of the CD. His appeal against that order was dismissed by the Hon'ble NCLAT vide order dated 20.12.2022. When he challenged the order of the Hon'ble NCLAT before the Hon'ble Supreme Court in Civil Appeal No. 1614 of 2023, he stated that he was not interested in continuing as the Liquidator of the CD. The Hon'ble Supreme Court, vide order dated 22.10.2024, took this statement on record and, only in view of that statement, set aside the adverse findings recorded against him in the said two orders, without going into the merits of the appeal.

3.2.11. The DC further observes that as noted earlier in paragraph 2.4.3 of this order, the present allegation does not rest on the order of the AA dated 01.07.2022 in IA/815/2020 or on the order of the Hon'ble NCLAT dated 20.12.2022. The reference in the SCN is to the order of the Hon'ble NCLAT dated 16.01.2024 in Company Appeal (AT) (CH) (Ins) No. 302 of 2021, which arose out of a different application, namely IA/255/2021 filed by the secured creditors of the CD, and which was not the subject matter of the proceedings before the Hon'ble Supreme Court. The DC further notes that the Review Application No. 02 of 2024 filed by Shri Venkata Sivakumar against the said order was withdrawn by him on 28.03.2024, and the order has, therefore, attained finality. The first objection is accordingly rejected.

3.2.12. The second preliminary objection raised by Shri Venkata Sivakumar is that the referred order dated 16.01.2024 of the Hon'ble NCLAT had already been considered in the earlier investigation, the outcome of which has been stayed by the Hon'ble High Court of Madras. The DC notes that the earlier SCN dated 03.07.2023 was based on an investigation report dated 21.02.2023 and was disposed of by another DC vide order dated 09.04.2024. That investigation report was submitted nearly eleven months before the Hon'ble NCLAT passed its order dated 16.01.2024 and, therefore, could not have considered that order. Further, the earlier proceedings concerned the disclosure of the valuation of the CD to a prospective scheme proponent, whereas the present allegation concerns the non-appointment of a second registered valuer and the exclusion of the Rayagada property from the Asset Memorandum. The present SCN is based on a separate investigation ordered on 07.02.2024 on a separate complaint. The stay granted by the Hon'ble High Court of Madras vide order dated 06.06.2024 on the DC order dated 09.04.2024 does not, therefore, come in the way of the present proceedings. The second objection is also rejected.

3.2.13. The DC now proceeds to examine the merits of the allegation. The DC notes that the CD owned, among other assets, sugar factories and lands in Andhra Pradesh and a large parcel of land at Rayagada in Odisha (Rayagada property). As recorded by the Hon'ble NCLAT in paragraphs 122 to 124 of its order dated 16.01.2024, a registered valuer, in his report dated 25.09.2019 obtained during the CIRP, had valued the Rayagada lands at Rs.1087.98 crore, out of a total fair value of about Rs.1368.78 crore for all the assets of the CD. Thereafter, Shri Venkata Sivakumar

obtained a fresh legal opinion from an advocate at Rayagada. The opinion stated that the lands were the subject matter of proceedings under the Odisha Land Reforms Act (OLR proceedings) pending before the Revenue Officer, Rayagada, and that the said proceedings had been stayed by the Hon'ble High Court of Orissa, and that the lands could neither be sold nor mortgaged. Relying on this opinion, the valuer, at the request of Shri Venkata Sivakumar, revised his report on 28.10.2019 and valued the Odisha assets at zero. As stated by the valuer and recorded by the Hon'ble NCLAT, when the fresh valuation was carried out after the commencement of liquidation on 29.05.2020, the Odisha assets were not taken up for valuation at all. The Asset Memorandum filed by Shri Venkata Sivakumar on 21.09.2020 accordingly showed a realisable value of Rs.217.52 crore, without including the Rayagada property.

3.2.14. The DC notes that Section 36(3)(e) of the Code provides that the liquidation estate shall include *"assets subject to the determination of ownership by the court or authority".* In simple terms, where the ownership of an asset of the corporate debtor is under dispute before a court or an authority, the asset does not drop out of the liquidation estate; rather, it remains a part of the estate of the CD.. A dispute over title may be a factor in arriving at the value of an asset, but it cannot be a ground for leaving the asset out of the liquidation estate and the Asset Memorandum altogether. The Hon'ble NCLAT, in paragraphs 130, 139 and 140 of its order dated 16.01.2024, has taken the same view. The DC also notes that, as recorded by the Hon'ble NCLAT in its order dated 16.01.2024, the Hon'ble High Court of Orissa, vide order dated 16.03.2022 in W.P.(C) No. 4490 of 2015, held that the CD had a right to compensation in respect of its ceiling surplus land at Rayagada. This shows that the Rayagada property carried value for the stakeholders.

3.2.15. The DC further notes that Shri Venkata Sivakumar submitted that the decision to value the Rayagada land as nil was taken by the CoC and that it was IDBI Bank which directed the appointment of another legal expert. The DC does not find merit in this submission for the following reasons. Firstly, the Hon'ble NCLAT, in paragraph 128 of its order dated 16.01.2024, has recorded that the zero-valuation based on the opinion of the advocate was not approved by the CoC/SCC. Secondly, it was the secured creditors, led by IDBI Bank, who had objected to the valuation by filing IA/255/2021 before the AA, and in the appeal arising out of that application, the Hon'ble NCLAT held that the Rayagada property is to be valued and included in the liquidation estate. The duty to take into custody all the assets of the CD and to include them in the liquidation estate and the Asset Memorandum is a statutory duty of the liquidator, and he cannot shift that responsibility to the creditors.

3.2.16. The DC also notes that Regulation 35 of the Liquidation Regulations, as it stood at the relevant time, gave the liquidator two options. Under sub-regulation (1), the liquidator can consider the average of the values arrived at by the registered valuers during the CIRP. Further, under sub-regulation (2), if the liquidator is of the opinion that a fresh valuation is required, the two registered valuers are required to be appointed within seven days of the liquidation commencement date to determine the realisable value of the assets. The decision whether to go for a fresh valuation was thus left to the liquidator. However, once he chose a fresh valuation, the appointment of two registered valuers was mandatory. The purpose of requiring two independent valuations is to guard against error or bias in a single estimate and to give the stakeholders a reliable basis for their decisions. Since registered valuers are registered for

specific asset classes, such as land and building or plant and machinery, two registered valuers are required for each asset class.

3.2.17. In the present case, Shri Venkata Sivakumar chose to get a fresh valuation of the land and building and the plant and machinery of the CD during the liquidation process. The relationship disclosures filed by him with IIIP-ICAI on 21.12.2020, a copy of which he has himself placed on record, shows that he had appointed only one valuer Shri R. Chandran for the asset class of 'Land and Building' and one valuer Shri R. Santha Kumar for the asset class of 'Plant and Machinery', on 06.06.2020. Hon'ble NCLAT, in paragraphs 126 and 141 of its order dated 16.01.2024, has also observed that only one report was obtained on the plant and machinery and one on the land and building, and that the liquidation value was arrived at on the basis of the report of a single valuer. Shri Venkata Sivakumar has neither named a second valuer for either asset class nor produced the report of any such valuer.

3.2.18. The DC notes that Shri Venkata Sivakumar submitted that both the valuers were appointed at the same time, but that the COVID-19 lockdown, announced soon after the first valuer completed his inspection, prevented the second valuer from proceeding. The DC is unable to accept this explanation. The nationwide lockdown came into force on 25.03.2020, about two months before the liquidation commencement date of 29.05.2020, and the restrictions were being progressively relaxed from 01.06.2020. The valuers were appointed on 06.06.2020 and the Asset Memorandum was filed only on 21.09.2020, more than three months later. Nothing has been placed on record to show that a second valuer was appointed for each asset class or that any effort was made during this period to obtain a second valuation. The DC also finds that the submission by Shri Venkata Sivakumar that the scheme under Section 230 of the Companies Act, 2013 was to be completed within 90 days, cannot be accepted as a valid justification for non-appointment of second valuer. As held by the Hon'ble NCLAT in paragraph 129 of its order dated 16.01.2024, the requirement of Regulation 35 of the Liquidation Regulations is separate from the process under Section 230 of the Companies Act, 2013, and the timeline for the latter cannot be used to bypass the former.

3.2.19. Shri Venkata Sivakumar has also submitted that more than seven resolution applicants were willing to negotiate for a higher price, and that the IA relied selectively on portions of judicial orders without examining the minutes of the SCC and JLF meetings. The DC has independently examined the material on record, including his replies and the documents relied upon by him. The willingness of a prospective applicant to offer a higher price does not dispense with the statutory requirements of including all the assets in the liquidation estate and obtaining two valuations. On the contrary, a proper valuation that included an asset as significant as the Rayagada property was essential for the stakeholders to judge as to what extent the offer reflected fair value of the liquidation assets.

3.2.20. In view of the above, the DC finds that Shri Venkata Sivakumar excluded the Rayagada property from the liquidation estate and the Asset Memorandum and conducted a fresh valuation of the assets of the CD without appointing two registered valuers for each asset class. The DC, therefore, holds that Shri Venkata Sivakumar has contravened Sections 36(3)(e), 208(2)(a) and

208(2)(e) of the Code, Regulation 35(2) of the Liquidation Regulations and Regulations 7(2)(a) and 7(2)(h) of the IP Regulations read with Clause 14 of the Code of Conduct.

3.3. **Bringing the Scheme of Arrangement without approval of the CoC.**

3.3.1. It was observed that Shri Venkata Sivakumar did not secure the approval of the Committee of Creditors (CoC) or the SCC to bring to an effect the 'scheme' under Section 230 of the Companies Act, 2013 which provides for the consent of secured creditors to the extent of 75%. Section 230(2) of the Companies Act, 2013 states as under:

"2) The company or any other person, by whom an application is made under sub-section(1), shall disclose to the Tribunal by affidavit-

...

(c) any scheme of corporate debt restructuring consented to by not less than seventy-five per cent. of the secured creditors in value,..."

3.3.2. The Hon'ble NCLAT *vide* order dated 16.01.2024 held the following:

"144. There is no two opinion of the vital fact that the Liquidator has not secured the 'Approval of the Creditors' to bring to an effect the 'scheme' under Section 230 of the Companies Act, 2013. In this connection, this Tribunal quite significantly points out that the procedure mentioned in Section 230(2) of the Companies Act, 2013 is to be adhered to and the same is not in exemption of any other Law, inclusive of the I&B Code, 2016."

3.3.3. In view of the above, the Board held *prima facie* view that conduct of Shri Venkata Sivakumar was, in violation of Sections 36(3)(e), 208(2)(a) and (e) of the Code, Regulations 35(2) of the Liquidation Regulations, Regulations 7(2)(a) and (h) of the IP Regulations read with Clauses 14, 18 and 19 of the Code of Conduct and Section 230(2) of the Companies Act read with Section 35(1)(m) of the Code.

Submissions by Shri Venkata Sivakumar.

3.3.4. Shri Venkata Sivakumar has submitted that the issuance of the present SCN was based solely on an observation made by the Hon'ble NCLAT, which itself was factually and legally incorrect, and was made without considering the actual record of the proceedings. The Hon’ble NCLAT order merely recorded the contention of the IDBI Bank, not a finding based on evidence or verified facts.

3.3.5. Shri Venkata Sivakumar further submitted that pursuant to directions from the AA, he was asked to explore the possibility of a compromise or arrangement under Section 230 of the Companies Act, 2013. Accordingly, deliberations with the SCC were duly recorded. The SCC directed that negotiations be held with potential promoters/applicants, and this was done twice in presence of the SCC members. These deliberations were recorded in the Joint Lenders Forum (JLF) minutes, which were also shared with the stakeholders. Based on the SCC inputs and deliberations, he shortlisted one proposal and filed a First Motion application before the AA seeking directions to convene the meeting of stakeholders under Section 230(1) of the Companies Act.

3.3.6. Shri Venkata Sivakumar further submitted that Section 230 of the Companies Act, 2013, read with Rule 3 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, clearly allows the liquidator to file a first motion seeking directions from the AA. The Stakeholder approval is sought after the AA permits convening of meetings and not before. No provision in the Code or Companies Act, 2013 mandates prior written "approval" of the SCC before filing a first motion under Section 230 of the Companies Act.

Analysis and Findings of the DC.

3.3.7. The Liquidation Regulations allow for compromise or arrangement under Section 230 of the Companies Act, 2013 even after a company goes into liquidation, so that the company may be revived as a whole instead of its assets being sold. Under Regulation 2B of the Liquidation Regulations, as it then stood, such a compromise or arrangement was required to be completed within 90 days of the order of liquidation. The DC notes that, after the CD went into liquidation on 29.05.2020, Shri Venkata Sivakumar held deliberations with the SCC and the lenders, shortlisted one proposal and filed an application (first motion) before the AA under Section 230(1) of the Companies Act, 2013, seeking directions to convene the meetings of the stakeholders. The secured creditors, led by IDBI Bank, objected to the scheme and to the valuation on which it was based by filing IA/255/2021 before the AA. The matter eventually reached the Hon'ble NCLAT, which, in its order dated 16.01.2024, observed that the liquidator had not secured the approval of the creditors to bring the scheme into effect.

3.3.8. The DC notes that Section 230(1) of the Companies Act, 2013 permits, among others, the liquidator of a company that is being wound up under the Code to apply to the Tribunal for a compromise or arrangement with its creditors. Section 230(2) then requires the person making such an application to disclose to the Tribunal, by affidavit, certain matters, which include, under clause (c), "any scheme of corporate debt restructuring consented to by not less than seventy-five per cent. of the secured creditors in value". The disclosure is to be made by the person "by whom an application is made under sub-section (1)", that is, at the time of filing the first motion itself. The use of the word "consented", in the past tense, makes it clear that where a scheme restructures the debts of the company, the consent of the secured creditors holding at least 75% of the secured debt in value must already exist when the application is filed. This requirement is separate from, and in addition to, the approval of the scheme by the creditors at the meetings that are convened later under Section 230(6).

3.3.9. The DC further notes that the submission of Shri Venkata Sivakumar that the first motion only seeks directions for convening meetings and the approval of the stakeholders is to be obtained thereafter cannot be accepted. As explained above, Section 230(2)(c) applies at the stage of the first motion itself. The deliberations with the SCC, the negotiations held twice in the presence of the SCC members and the minutes of the Joint Lenders' Forum, on which he relies, show at best that the secured creditors were consulted. They do not show that secured creditors holding 75% of the secured debt in value had consented to the scheme. No such consent has been placed on record. On the contrary, the secured creditors, led by IDBI Bank, opposed the scheme before the AA through IA/255/2021.

3.3.10. Further, with respect to the submission of Shri Venkata Sivakumar that the Hon'ble NCLAT merely recorded the contention of IDBI Bank and did not make any finding of its own, the DC finds it contrary to the record. In paragraphs 144 to 146 of its order dated 16.01.2024, the Hon'ble NCLAT, observed that *"there is no two opinion of the vital fact that the Liquidator has not secured the 'Approval of the Creditors' to bring to an effect the 'scheme' under Section 230 of the Companies Act, 2013*". The Hon'ble NCLAT has also recorded that the procedure under Section 230(2) of the Companies Act, 2013 is to be adhered to and is not exempted by the Code, and that the scheme is to be followed in true letter and spirit before it is presented to the AA. These are the observations of the Hon'ble NCLAT itself and not a recital of the submissions of a party. As already noted, the review application filed by Shri Venkata Sivakumar against this order was withdrawn by him, and the order has attained finality.

3.3.11. In view of the above, the DC finds that Shri Venkata Sivakumar moved the scheme of compromise under Section 230 of the Companies Act, 2013 before the AA without the consent of the secured creditors required under Section 230(2)(c) thereof and thereby failed to act in accordance with law while discharging his functions as the liquidator. The DC, therefore, holds that Shri Venkata Sivakumar contravened Sections 35(1)(m), 208(2)(a) and 208(2)(e) of the Code, Regulations 7(2)(a) and 7(2)(h) of the IP Regulations read with Clause 14 of the Code of Conduct, and Section 230(2) of the Companies Act, 2013.

3.4. **Non-Cooperation with the Investigating Authority.**

3.4.1. It was observed that the Investigating Authority had issued a notice of investigation on 21.02.2024 seeking reply from Shri Venkata Sivakumar, on the complaint forwarded to him vide the said notice. It was further noticed that Shri Venkata Sivakumar provided partial reply to the certain allegations in the complaint vide e-mail dated 21.02.2024 and 22.02.2024. The IA *vide* email dated 13.12.2024 requested Shri Venkata Sivakumar to provide final reply to all the allegations in the complaint. However, *vide* e-mail dated 15.12.2024, Shri Venkata Sivakumar merely denied all the allegations levelled against him but chose not to provide para wise comments on all the allegations in the complaint. Thereafter, the IA *vide* email dated 23.01.2025 again requested Shri Venkata Sivakumar to provide para wise reply to the allegations and certain specific documents. The extract of the email dated 23.01.2025 is as under:

"With reference to the trailing mail, while we have received your reply on a few allegations, you are yet to provide your specific para wise reply to each and every allegation levelled by the complainant against you. You may provide your reply in corresponding column as provided in the document attached herewith. The document is an extract of the complaint filed by the complainant against you. We are further sending you the original complaint dated 18.01.2024 for your convenience.

You are further requested to provide the following to facilitate the investigation:
i. A copy of the asset memorandum
ii. A copy of the IM circulated by you.
iii. A copy of all the CoC and SCC minutes along with voting sheets.
iv. A copy of the recall petition as mentioned by you in your reply.
Kindly provide your reply within 7 days of the receipt of this email."

3.4.2. In response, *vide* letter dated 23.01.2025 Shri Venkata Sivakumar submitted that he was removed as liquidator on 01.07.2022 and all the information, physical documents etc. were given to the new Liquidator. As per Regulation 39A(3) of IBBI (Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and Regulation 45A(3) of Liquidation Regulations, a Resolution Professional and a liquidator is required to preserve electronic copy of all records (physical and electronic) for a minimum period of eight years and physical copy of records for a period of three years. Hence, Shri Venkata Sivakumar was mandated to keep all the records pertaining to the CIRP and liquidation process of the CD as per the timelines mentioned in the above-stated regulations. Further, Shri Venkata Sivakumar also stated that E&Y carried out the investigation without doing any audit or visiting the factories or perusing the physical documents. It was, however, observed that Shri Venkata Sivakumar failed to provide specific reply to the allegations in the complaint thereby failing to render cooperation and necessary assistance to the Board, as required under Clauses 18 and 19 of the Code of Conduct.

3.4.3. In view of the above, the Board, *prima facie*, held the view that Shri Venkata Sivakumar had contravened Regulation 39A(3) of CIRP Regulations and Regulation 45A(3) of Liquidation Regulations by failing to maintain a written contemporaneous record for any decision taken, the reasons for taking the decision, and the information and evidence in support of such decision and Regulation 7(2)(a) and (h) of the IP Regulations read with Clauses 16, 18 and 19 of the Code of Conduct in failing to extend the required cooperation to the IA.

Submissions by Shri Venkata Sivakumar.

3.4.4. Shri Venkata Sivakumar submitted that copies of the Asset Memorandum, the IM, the audited balance sheets and all the CoC and SCC minutes had been furnished to the IA but had not been examined by it. Since no voting took place, the question of providing voting sheets did not arise. He further submitted that the recall petition against the order of the Hon'ble NCLAT was provided to the IA on three occasions. He submitted that the Asset Memorandum and Information Memorandum circulated by him were handed over to the new liquidator who took charge of the process. He also drew attention to the Asset Memorandum details already placed before the AA and recorded in IA/255/2021.

3.4.5. Shri Venkata Sivakumar further submitted that the IA could have verified these documents from the quarterly reports filed and also from the new liquidator. Instead, the intention of the IA seemed to be to find fault without properly examining the information made available. He further submitted that the IA had not considered that the grounds of the complaint of IDBI Bank were false and frivolous.

Analysis and Findings of the DC.

3.4.6. The DC notes that an investigation by the Board is the principal means by which the conduct of an insolvency professional is examined vis-à-vis any complaint received by the Board against such Insolvency Professional. Its effectiveness depends on the Insolvency Professional placing his version and the relevant records before the IA. For this reason, Clause 18 of the Code of Conduct requires an Insolvency Professional to appear, cooperate and be available for

investigations carried out by the Board, and Clause 19 requires him to provide all information and records as may be required by the Board.

3.4.7. The DC on perusal of the material available on record notes the following sequence of events. The IA issued the notice of investigation, enclosing copy of the complaint, to Shri Venkata Sivakumar on 21.02.2024. On the same day, he replied that he did not have any physical records as he had handed them over to the new Liquidator, and that he would not be in a position to give an effective reply within 10 days and sought eight weeks' time. On 22.02.2024, he stated that he would send his observations in a piecemeal manner and raised certain questions about the complaint. On 13.12.2024, the IA again asked him to give his final reply on all the allegations. On 15.12.2024, he denied all the allegations, stated that all the required details were available in the recordings of the SCC meetings, and sought a copy of the E&Y report and the reasons recorded for ordering the investigation. The IA sent him the E&Y report on 16.12.2024. On 17.01.2025, he again sent a partial reply along with further questions. On 23.01.2025, the IA sent him an extract of the complaint in a tabular form, requesting him to give his reply against each allegation and asked him to furnish four documents, namely the Asset Memorandum, the Information Memorandum, the minutes of the CoC and SCC meetings along with the voting sheets, and the recall petition referred to by him. In his reply of the same date, he stated that IDBI Bank had no locus standi, that E&Y had not conducted any audit or visited the factories, and that all the information had been given to the new Liquidator.

3.4.8. The DC observes that Shri Venkata Sivakumar had nearly eleven months, far more than the eight weeks he had sought, to respond to the allegations. Despite three specific requests, he never gave a point-wise reply to the allegations in the complaint. Instead, he questioned the locus of the complainant, the basis of the E&Y report and the decision of the Board to order the investigation.

3.4.9. The DC further cannot accept the submission of Shri Venkata Sivakumar that the records had been handed over to the new Liquidator. Regulation 39A(3) of the CIRP Regulations and Regulation 45A(3) of the Liquidation Regulations require the resolution professional and the liquidator, respectively, to preserve an electronic copy of all records for a minimum period of eight years and a physical copy of the records for a minimum period of three years. Under the Explanation to Regulation 39A(3), this duty extends to the records of the period during which he acted as such, even if he did not continue till the conclusion of the process. The duty to preserve records is personal to the Insolvency Professional and continues even after he hands over charge to his successor. The DC notes that Shri Venkata Sivakumar handed over charge to new liquidator in July 2022. When the IA approached him in February 2024, well within three years, he stated that he had no physical records. This, by his own admission, shows that he did not preserve a physical copy of the records as was required.

3.4.10. Further, Shri Venkata Sivakumar was also required to preserve an electronic copy of all the records for eight years, and he has not explained why he could not use those records to reply to the allegations. His submission that the IA could have obtained the documents from the quarterly reports or from the new Liquidator does not relieve him of his own obligation to furnish the information sought from him. The DC also notes that an Insolvency Professional who cannot

produce the records of his decisions also fails to meet the requirement of Clause 16 of the Code of Conduct to maintain written contemporaneous records for the decisions taken by him.

3.4.11. In view of the above, the DC finds that Shri Venkata Sivakumar did not preserve the records of the processes conducted by him as required and did not extend the cooperation and assistance required of him in the investigation. The DC, therefore, holds that Shri Venkata Sivakumar contravened Regulation 39A(3) of the CIRP Regulations, Regulation 45A(3) of the Liquidation Regulations and Regulations 7(2)(a) and 7(2)(h) of the IP Regulations read with Clauses 16, 18 and 19 of the Code of Conduct.

3.5. **Failure to file Relationship Disclosure.**

3.5.1. The Board Circular No. IP/005/2018 dated 16.01.2018 (IBBI Relationship Disclosure Circular) provides that an insolvency professional shall ensure disclosure of the relationship, if any, of the other professional(s) engaged by him with (i) himself, (ii) the Corporate Debtor, (iii) Financial Creditor(s), (iv) Interim Finance Provider(s), and (v) Prospective Resolution Applicant(s) to the Insolvency Professional Agency of which he is a member, within the time specified.

3.5.2. It was observed from the portal of IIIP-ICAI that Shri Venkata Sivakumar had not filed the relationship disclosures for the appointment of marketing consultants namely China Masthan and M/s NM Sarma and Associates with IIIP-ICAI, of which he is a member, as required under the aforesaid circular dated 16.01.2018. Hence, the Board held the *prima facie* view that Shri Venkata Sivakumar had violated the provisions of the Circular No. IP/005/2018 dated 16.01.2018 read with Clauses 10 and 14 of the Code of Conduct as specified in the First Schedule of the IP Regulations.

Submissions by Shri Venkata Sivakumar.

3.5.3. Shri Venkata Sivakumar submitted that the summary of issues prepared on the basis of IDBI Bank's complaint did not mention this infirmity and that the IA never sought this detail. Shri Venkata Sivakumar submitted that he had no personal acquaintance or relationship with CMT & Associates Chartered Accountants (China Masthan). The said consultants were instrumental in creating value worth Rs.1500 crore by helping him to handle the litigation and hostile tribes at Rayagada and also dealt with Hon'ble High Court of Orissa and the CM secretariat. They attended every SCC meeting wherein active deliberation between the secured creditors led by IDBI Bank and the CMT Associates took place. He enclosed the relationship disclosure in respect of CMT Associates with his reply to the SCN and submitted that the disclosure forms were also filed before the IBBI and IIIP-ICAI along with the quarterly reports.

Analysis and Findings by the DC.

3.5.4. The DC notes that in order to ensure that the engagements of professionals by the Insolvency Professional is free from any conflict of interest, the Board, vide Circular No. IP/005/2018 dated 16.01.2018, required an Insolvency Professional to disclose the relationship, if any, of every professional engaged by him with himself, the corporate debtor, the financial creditors, the interim finance providers and the prospective resolution applicants, to the insolvency professional agency of which he is a member, within the time specified in the Circular. The

disclosure is to be made whether or not any such relationship exists, so that the stakeholders and the regulator can see for themselves that the engagement is free from conflict.

3.5.5. The DC notes from the documents placed on record by Shri Venkata Sivakumar that, during the liquidation process, M/s CMT & Associates, Chartered Accountants, approached him on 13.07.2020 to act as marketing consultant for the sale of scrap and damaged items at the Chagallu factory of the CD, and conducted an open bid for this purpose. Later, M/s CMT Corporate Care LLP, of which Shri China Masthan Talakayala is the designated partner, was engaged with effect from 03.06.2021 as strategic advisor for legal strategy, liaison with the Government of Odisha and marketing strategy for the sale of the Rayagada land. The SCN also recorded that M/s NM Sarma and Associates was engaged by him as a marketing consultant.

3.5.6. The DC further notes that the disclosures filed by Shri Venkata Sivakumar on the portal of IIIP-ICAI, a screenshot of which he himself enclosed with his reply to the SCN, shows that on 21.12.2020 he had filed disclosures in respect of the registered valuers, the statutory auditor, the authorised representative and the process advisors appointed in the liquidation process. There is, however, no disclosure in respect of M/s CMT & Associates, M/s CMT Corporate Care LLP or Shri China Masthan, or in respect of M/s NM Sarma and Associates. The engagement letters enclosed by him are not disclosures under the Circular. He has also not produced any document to support his statement that the disclosures were filed along with the quarterly reports. In any case, the Circular requires the disclosure to be made to the insolvency professional agency within the specified time.

3.5.7. In view of the above, the DC finds that Shri Venkata Sivakumar did not file the relationship disclosures in respect of the marketing consultants engaged by him. The DC, therefore, holds that Shri Venkata Sivakumar has contravened Circular No. IP/005/2018 dated 16.01.2018 read with Clauses 10 and 14 of the Code of Conduct.

4. Conclusion and Order

4.1. In view of the foregoing, the DC finds that the preliminary objections raised by Shri Venkata Sivakumar are without merit, and holds that he has committed the following contraventions:

a) unauthorised transfer of Rs. 70 lakh belonging to the CD to a fixed deposit in his name on 05.07.2022 after being replaced as the Liquidator, and misleading the Investigating Authority about the date of upload of the AA's order dated 01.07.2022, in contravention of Section 208(2)(a) and (e) of the Code and Regulation 7(2)(h) of the IP Regulations read with Clauses 1, 2, 12 and 14 of the Code of Conduct;

b) exclusion of the Rayagada property from the liquidation estate and the Asset Memorandum, and fresh valuation of the assets of the CD without appointing two registered valuers for each asset class, in contravention of Sections 36(3)(e), 208(2)(a) and 208(2)(e) of the Code, Regulation 35(2) of the Liquidation Regulations and Regulations 7(2)(a) and 7(2)(h) of the IP Regulations read with Clause 14 of the Code of Conduct;

c) moving the scheme of compromise under Section 230 of the Companies Act, 2013 before the AA without the consent of the secured creditors required under Section 230(2)(c) thereof, in contravention of Sections 35(1)(m), 208(2)(a) and 208(2)(e) of the Code, Regulations 7(2)(a) and 7(2)(h) of the IP Regulations read with Clause 14 of the Code of Conduct, and Section 230(2) of the Companies Act, 2013;

d) failure to preserve the records of the processes conducted by him and to cooperate with the IA during the investigation, in contravention of Regulation 39A(3) of the CIRP Regulations, Regulation 45A(3) of the Liquidation Regulations and Regulations 7(2)(a) and 7(2)(h) of the IP Regulations read with Clauses 16, 18 and 19 of the Code of Conduct; and

e) failure to file the relationship disclosures in respect of the marketing consultants engaged by him, in contravention of Circular No. IP/005/2018 dated 16.01.2018 read with Clauses 10 and 14 of the Code of Conduct.

4.2. In view of the foregoing discussion, and having considered the SCN, the reply to the SCN, and the oral and written submissions made by Shri Venkata Sivakumar, the DC in exercise of the powers conferred under Section 220 of the Code read with Regulation 11 of the IP Regulations and Regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 hereby suspends the registration of Shri Venkata Sivakumar (Registration No. IBBI/IPA-001/IP-P00184/2017-18/10852) for a period of three years. Further, in terms of Section 206 of the Code, Shri Venkata Sivakumar shall not be eligible to continue his existing assignments.

4.3. In determining the penalty, the DC has considered the nature and gravity of the contraventions, the role of a liquidator under the Code and the impact of the conduct of Shri Venkata Sivakumar on the liquidation process. A liquidator holds the assets of the corporate debtor in trust for all its stakeholders and is entrusted by law with their custody, valuation and realisation. The contraventions established in this Order go to the core of that trust. Shri Venkata Sivakumar moved Rs. 70 lakh of the funds of the CD into an account in his own name at a time when he knew that he had been replaced and then gave the IA an incorrect account of the relevant date. He kept out of the liquidation estate, an asset that had earlier been valued at over Rs.1,000 crore during the CIRP period of the CD, which is about five times of the total realisable value of Rs.217.52 crore (excluding the value of the Rayagada property) during the liquidation period as shown in the Asset Memorandum, and dispensed with the safeguard of a second valuation, thereby depriving the stakeholders of a complete and reliable picture of the assets on which every decision in the liquidation depended. Further, Shri Venkata Sivakumar placed a scheme of compromise before the AA without the statutory consent of the secured creditors and, when called upon to explain his conduct, did not cooperate with the investigation. These are neither technical lapses nor isolated errors of judgement. They are serious and repeated departures from the core duties of a liquidator, spread across the handling of funds, the identification and valuation of assets, the conduct of statutory processes and his dealings with the regulator. Such established misconduct on the part of Shri Venkata Sivakumar undermines the objective of the Code to maximise the value of the assets of the corporate debtor. The DC is, therefore, of the view that the contraventions warrant the suspension of the registration of Shri Venkata Sivakumar for a period of three years.

4.4. This Order shall come into force on expiry of 30 days from the date of its issue.

4.5. A copy of this order shall be sent to the CoC/SCC of all the corporate debtors in which Shri Venkata Sivakumar is providing his services, if any. The CoC/SCC of the respective corporate debtors shall take necessary steps for the replacement of Shri Venkata Sivakumar in accordance with law.

4.6. A copy of this order shall be forwarded to the Indian Institute of Insolvency Professionals of ICAI (IIIP-ICAI) where Shri Venkata Sivakumar is enrolled as a member.

4.7. A copy of this order shall also be forwarded to the Registrar of the Principal Bench of the National Company Law Tribunal, New Delhi, for information.

4.8. Accordingly, the show cause notice is disposed of.

Sd/-
(Dr. Bhushan Kumar Sinha)
Whole Time Member
Insolvency and Bankruptcy Board of India

Sd/-
(Jayanti Prasad)
Chairperson
Insolvency and Bankruptcy Board of India

Date: 09 November 2026
Place: New Delhi