

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
(Disciplinary Committee)

No. IBBI/DC/266/2025

18th February 2025

ORDER

This Order disposes of the Show Cause Notice (SCN) No. IBBI/C/2023/00902/840/86 dated 19.02.2024, issued to Mr. Arumugam Arumugam, (“**Mr. Arumugam/IP**”) who is a Professional Member of Insolvency Professional Agency of Institute of Cost Accountants of India and an Insolvency Professional registered with the Insolvency and Bankruptcy Board of India (IBBI/Board) with Registration No. IBBI/IPA-003/IP-N00094/2017-2018/10936

1. Background

- 1.1 The National Company Law Tribunal, Chennai Bench (“**AA**”) vide order dated 22.07.2022 admitted the application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“**Code**”) filed by M/s Jiangsu Yinhe Electronics Co. Ltd. for initiating Corporate Insolvency Resolution Process (“**CIRP**”) of the Madurai Kirshna Network Private Limited (CD-1) and appointed Ms. Asha Rathod as Interim Resolution Professional (IRP). She was replaced by Mr. Arumugam Arumugam as the Resolution Professional (RP).
- 1.2 The AA vide order dated 09.12.2019 admitted the application under Section 7 of the Code, filed by Syndicate Bank for initiating CIRP of Vijai Spinners (RJPM) Pvt. Ltd. (CD-2) and appointed Mr. B. Sathrukkaman as the IRP. The AA vide its Order dated 19.09.2022 ordered for liquidation of the CD-2 and Mr. Arumugam was appointed as the liquidator.
- 1.3 The Board in the exercise of its powers under Section 218 of the Code, read with Regulations 7(1) and 7(2) of Insolvency and Bankruptcy Board of India (Inspection and Investigation), Regulations, 2017 (Inspection and Investigation Regulations), appointed an Investigating Authority (IA) to investigate into conduct of Mr. Arumugam in the CIRP of the CD-1 and liquidation of CD-2. The IA served a notice of investigation upon the IP Mr. Arumugam on 01.05.2023 in the matter of CD-1 and on 13.06.2023 in the matter of CD-2 as per Regulation 8(1) of the Inspection and Investigation Regulations. In response to the said notice of investigation, Mr. Arumugam submitted his reply vide e-mails dated 06.06.2023 and 20.06.2023 in respect of CD-1 and CD-2 respectively. Based on the material available on record including the investigation report dated 11.12.2023 and 17.11.2023 for CD-1 and CD-2, the Board formed a *prima facie* opinion that Mr. Arumugam had contravened provisions of the Code and Regulations made thereunder and issued the SCN to Mr. Arumugam on 19.02.2024. Mr. Arumugam submitted his reply to the SCN dated 03.04.2024.
- 1.4 The Board referred the SCN, the response of Mr. Arumugam to the SCN to the Disciplinary Committee (“**DC**”) for disposal of the SCN in accordance with the Code and Regulations made thereunder. Mr. Arumugam availed the opportunity of personal hearing before the DC through virtual mode on 11.02.2025 and provided additional submissions.

2. Alleged Contraventions, Submissions of Mr. Arumugam and Findings of the DC

The contravention alleged in the SCN, submissions by Mr. Arumugam and the findings of the DC are summarized as follows:

In the matter of M/s. Madurai Kirshna Network Private Limited (CD-1)

2.1 Failure to take prior approval of the CoC for appointment of statutory auditor

- 2.1.1 It was observed from the reply of Mr. Arumugam to the IA that M/s S.E. Prabhar & Co. submitted its resignation vide letter dt. 14.11.2022. Subsequently, Mr. Arumugam appointed Mr. Srinivasan as statutory auditor. Section 28(1)(m) of the Code provides that the RP shall take prior approval of the CoC to make changes in the appointment or terms of contract of statutory or internal auditors of the corporate debtor. However, on perusal of minutes of 6th CoC meeting held on 21.11.2022, it was observed that Mr. Arumugam had failed to take prior approval of the CoC before the appointment of new statutory auditor, as the CoC was informed about this appointment in the above-mentioned meeting only.
- 2.1.2 In view of the above, the Board was of the *prima facie* view that Mr. Arumugam contravened Sections 28(1)(m), 208(2)(a) and (e) of the Code, Reg. 7(2)(a) and (h) of the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations) read with Clause 14 of the Code of Conduct for IPs specified thereunder.

Submissions by Mr. Arumugam

- 2.1.3 Mr. Arumugam submitted that there was only one member in the CoC namely Canara Bank, and in the 6th CoC meeting an agenda for approval for the appointment of Statutory Auditor was placed, and the same was approved by the sole member of the CoC. However, due to inadvertence while recording the minutes the same was not captured, but in the subsequent meeting the CoC continued to approve the Statutory Auditors fee.

Analysis and Findings

- 2.1.4 The DC notes that Mr. Arumugam was obligated to obtain prior approval of the committee of creditors to make changes in the appointment or terms of contract of statutory auditors or internal auditors of the corporate debtor. Section 28(1)(m) of the Code *inter alia* reads as
- “Section 28 Approval of committee of creditors for certain actions.***
(1) Notwithstanding anything contained in any other law for the time being in force, the resolution professional, during the corporate insolvency resolution process, shall not take any of the following actions without the prior approval of the committee of creditors namely: —
- (a) ...*
(m) make changes in the appointment or terms of contract of statutory auditors or internal auditors of the corporate debtor...”
- 2.1.5 The DC observes the submission of Mr. Arumugam that in the 6th CoC meeting held on 21.11.2022, the CoC was informed about the appointment of Mr. Srinivasan as the statutory auditor. Mr. Arumugam admitted that due to inadvertence, the same was not captured while recording the minutes, but in the subsequent meeting the CoC continued to approve the Statutory Auditor’s fee.
- 2.1.6 It is to be noted that the RP is bound by the duties under the Code to maintain the minutes of every meeting in a proper manner. The RP must ensure that the minutes reflect an accurate, clear, and concise record of the meeting’s discussions, decisions, and actions. This supports transparency and accountability in the execution of his duties. Sections

208(2)(a) and (e) of the Code read with Clause 14 of the Code of Conduct of IP Regulations mandates IP to take reasonable care, diligence and he must not be negligent while performing his duties. Since Mr. Arumugam submitted that in the subsequent meeting the CoC continued to approve the Statutory Auditors fee, the DC advises Mr. Arumugam to carry out his responsibilities with utmost diligence and care in future for all assignments under the Code.

2.2 Non-cooperation by suspended directors and erstwhile IRP:

- 2.2.1 It was observed from the reply of Mr. Arumugam's to the IA that even after the AA's order dated 16.03.2023, directing the suspended directors to cooperate with the RP, the suspended directors failed to provide him with the documents and assets of the CD-1. The minutes of 14th CoC meeting held on 30.03.2023 mentioned that he had requested the suspended director to hand over all assets of the CD-1 including the car and access to the office. The IP admitted that as the approval of the resolution plan was at the final stage, he did not pursue/file the application with the AA regarding non-cooperation by the suspended directors.
- 2.2.2 As per Section 25(2)(a) of the Code, it was Mr. Arumugam's obligation to take immediate custody and control of all the assets of the CD-1 including the business records. The above conduct shows dereliction of duty and negligence on his part as he has failed to take any action after the 14th meeting of the CoC wherein it was categorically disclosed that all assets of the CD-1 were not in his custody and control as on the date of the CoC meeting. Thus, Mr. Arumugam failed to take effective control and custody of all assets of the CD-1, including the business records as mandated under Section 25(2)(a) as per the Code.
- 2.2.3 Mr. Arumugam also mentioned in his reply (to the IA) that the erstwhile IRP (Ms. Asha Rathod) had not provided any details of cash collections due for payment with party name, amount collected by the IRP, etc. He had further mentioned that there was only a partial handover of documents by the erstwhile IRP. He was under the duty to follow up with the IRP regarding such transactions/documents or should have approached the AA for non-cooperation under Section 19(2) of the Code, if required, for necessary assistance. However, it appears that no such action was taken by Mr. Arumugam.
- 2.2.4 In view of the above, the Board was of the *prima facie* view that, Mr. Arumugam had violated Sections 25(2)(a), 208(2)(a) and (e) of the Code, Regulation 7(2)(a) and (h) of the IP Regulations read with Clause 1 and 14 of the Code of Conduct for IPs specified thereunder.

Submissions by Mr. Arumugam

- 2.2.5 Mr. Arumugam submitted that by that time, he could collect the details for drafting the application under Section 19(2) against the suspended directors, the resolution plan submitted by the said Suspended Directors was approved by the CoC. The relevant dates as were as follows:
16.03.2023 - Order from AA towards non-cooperation
30.03.2023 – 14th CoC meeting where he requested the suspended directors to hand the assets.
17.4.2023- Resolution Plan was approved.
- 2.2.6 Mr. Arumugam submitted that the details for cash collection dues and partially handed over

documents, were subsequently collected from the erstwhile IRP.

Analysis and Findings

2.2.7 It is the duty of RP to take effective control and custody of all assets of the CD including the business records. He should follow up with the erstwhile management to provide him with all the documents and assets of the CD or should have approached the AA under Section 19(2) of the Code, if required, and take necessary assistance from the IRP. The DC notes that an application for non-cooperation was filed under Section 19(2) before the AA and the order of AA dated 16.03.2023 was issued for the aforesaid application. The DC advises Mr. Arumugam to be more proactive to ensure that the CIR process is conducted within time fairly and objectively and to make earnest efforts to maximize the value of assets of the corporate debtor.

2.3 Failure to provide important information in the Information Memorandum (IM)

2.3.1 It was observed that important details pertaining to description of assets such as date of acquisition, cost of acquisition, remaining useful life, identification number etc. were not available in the IM. Regulation 36(2)(a) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) provides that the IM shall contain all relevant information including assets and liabilities with such description, as on the insolvency commencement date, as are generally necessary for ascertaining their values. The 'Description' includes the details such as date of acquisition, cost of acquisition, remaining useful life, identification number, etc.

2.3.2 In view of the above, the Board formed a *prima facie* view that Mr. Arumugam had violated Regulation 36(2)(a) of CIRP Regulations, Regulation 7(2)(a) and (h) of the IP Regulations read with Clause 14 of the Code of Conduct for IPs specified thereunder.

Submissions by Mr. Arumugam

2.3.3 Mr. Arumugam submitted that the description of Assets was disclosed in the IM to the extent of the available details. Therefore, all the available information had been furnished in the IM with regard to the assets of the CD-1.

Analysis and Findings

2.3.4 On perusal of the IM available on records, it is observed that only the type of assets along with its quantity and book value of assets have been stated in the IM. The details pertaining to the description such as the date of acquisition, cost of acquisition, remaining useful life, identification number etc., of assets had not been provided in the IM. Regulation 36(2)(a) of the CIRP regulation mandates key information to be mentioned in the Information memorandum and *inter alia* states that

Regulation 36 Information memorandum.

(2) [The information memorandum shall highlight the key selling propositions and contain all relevant information which serves as a comprehensive document conveying significant information about the corporate debtor including its operations, financial statements, to the prospective resolution applicant and shall contain the following details of the corporate debtor-] –

(a) [assets and liabilities [including contingent liabilities] with such description,

as on the insolvency commencement date, as are generally necessary for ascertaining their values.

Explanation: Description' includes the details such as date of acquisition, cost of acquisition, remaining useful life, identification number, depreciation charged, book value, [geographical coordinates of fixed assets] and any other relevant details.]

- 2.3.5 The DC notes the submission of Mr. Arumugam that the description of assets was disclosed in the IM to the extent of the available details. The DC observes that no justification has been provided by Mr. Arumugam for his inability to provide the requisite information as per the provision of Regulation 36(2)(a) of the CIRP Regulations in the IM. The DC further notes that the IP is obligated to arrange important and relevant details required to be provided as per the Code read with the Regulation.
- 2.3.6 It is pertinent to mention that the Information Memorandum (IM) serves as the foundation for the resolution process under the Code, providing the basis for preparing a resolution plan. A well-structured IM enhances resolution outcomes, maximizes value, and improves creditor recoveries. The Resolution Professional (RP) is responsible for preparing the IM, which must include comprehensive details of the corporate debtor's assets, covering fixed assets (land, buildings, machinery), current assets (inventory, receivables, cash), intangible assets (patents, trademarks, goodwill), and financial assets (investments, securities) etc. The description of assets should include details such as date and cost of acquisition, remaining useful life, identification number, depreciation charged, book value, geographical coordinates of fixed assets, and any other relevant details. It should also disclose any encumbrances, mortgages, or liabilities on these assets. Additionally, the IM must provide a list of creditors and admitted claims, details of debt due from related parties, the number of workers and employees along with their outstanding liabilities, information on material litigations, the latest audited financial statements along with those from the past two years, and provisional financial statements etc.
- 2.3.7 Thus, the IM is a comprehensive document that conveys critical and essential information about the corporate debtor including its operations, and financial statements, to the Prospective Resolution Applicants (PRAs) to assess the viability of the corporate debtor's business. It ensures transparency, aids in accurate valuation, and enables the RAs to make well-informed decisions when formulating their resolution plans. The Resolution Professional (RP) must act diligently and carefully to ensure that the Information Memorandum (IM) contains all requisite information, including comprehensive details of assets, liabilities, and other critical disclosures, in compliance with Code and CIRP Regulations
- 2.3.8 An improperly prepared Information Memorandum (IM) can significantly reduce investor interest, as prospective Resolution Applicants (RAs) may lack the necessary data for thorough due diligence, making it difficult to assess the financial and operational viability of the CD. Mr. Arumugam failed to provide the requisite asset details as mandated under Regulation 36(2)(a) of the CIRP Regulations. Therefore, the DC holds that the contravention is made out, on this account.

2.4 Mentioning of wrong date in RFRP

- 2.4.1 It was observed from the RFRP that the date of submission of Resolution Plan was mentioned as 10.11.2022 whereas the second Form-G was published on 17.01.2023.

Therefore, Mr. Arumugam had mentioned the wrong date for submission of the resolution plan. In view of the above, the Board held *prima facie* view that Mr. Arumugam had violated Sections 208(2)(a) and (e) of the Code, Regulation 7(2)(a) and (h) of the IP Regulations read with Clause 14 of the Code of Conduct for IPs specified thereunder.

Submissions by Mr. Arumugam

- 2.4.2 Mr. Arumugam submitted that the date of submission of Resolution Plan was revised in the subsequent Form-G by calculating the date effecting from the date of publication. Therefore, there was no mentioning of wrong date for the submission of Resolution Plan.

Analysis and Findings

- 2.4.3 The DC accepts his submission and cautions Mr. Arumugam to perform his duties with utmost care and diligently.

2.5 Issues w.r.t filing of avoidance transaction application

- 2.5.1 It was observed that the CIRP of the CD commenced on 22.07.2022 and the application for avoidance transactions, if such determination is made, is supposed to be filed within 130 days of the Insolvency Commencement Date (ICD), as per Regulation 35A (3) of the CIRP Regulations. However, the avoidance application was filed before the AA on 16.05.2023, i.e., 298 days from the ICD.
- 2.5.2 It was further observed that the application under Section 66 of the Code was filed on 16.05.2023 whereas in Form H which was signed on 02.05.2023, the date of filing of Section 66 application was mentioned as 09.05.2023. Therefore, it is observed that there was a contradiction in the dates mentioned in these two documents. It was also observed that Section 66 application was filed against the same suspended directors whose resolution plan was submitted before the AA for approval. Regulation 35A(3) of the CIRP Regulations provides that where the RP makes a determination of any transactions covered under Sections 43, 45, 50, or 66, he shall apply to the Adjudicating Authority (AA) for appropriate relief on or before 130th day from the ICD.
- 2.5.3 In view of the above, the Board held *prima facie* view that Mr. Arumugam had violated Sections 208(2)(a) and (e) of the Code, Regulation 35A (3) of the CIRP Regulations, Regulation 7(2)(a) and (h) of the IP Regulations read with Clause 13 and 14 of the Code of Conduct for IPs specified thereunder.

Submissions by Mr. Arumugam

- 2.5.4 Mr. Arumugam submitted that the avoidance application was filed after a considerable time because the Forensics Auditors report in part was received only in later period of time. He further mentioned that the wrong date in the Application under Section. 66 of the Code was rectified subsequently with the approval of the CoC. He submitted that there was no bar in filing Section 66 application against the suspended directors who were the successful Resolution Applicant.

Analysis and Findings

- 2.5.5 The Code read with Regulations specifies the timeline for each task in a CIRP, as well as the overall timeline. Since Mr. Arumugam has submitted that the Forensics Auditors report

in part was received only in a later period of time, the DC accepts his submission and advise him to carefully plan his actions, promptly communicate with all stakeholders, appoint professional with time-bound mandates and ensure that every task in the CIRP is completed in time. The DC also cautions Mr. Arumugam to file document, record, and application accurately and without errors.

2.6 Discrepancy in the list of PRA

- 2.6.1 It was observed from Mr. Arumugam's reply (to the IA) that in the final list of PRAs, the name of only Mr. Mohana Prasath appears. However, in the resolution plan submitted, the names of two other people, apart from Mr. Mohana Prasath, were added as resolution applicants.
- 2.6.2 In view of the above, the Board held *prima facie* view that Mr. Arumugam had violated Sections 208(2)(a) and (e) of the Code, Regulation 7(2)(a) and (h) of the IP Regulations read with Clause 3, 5 and 14 of the Code of Conduct for IPs specified thereunder.

Submissions by Mr. Arumugam

- 2.6.3 Mr. Arumugam submitted that he had not done any wilful mistake in mentioning the 1st Person name as all the name of the PRA had been specifically mentioned in detail subsequently.

Analysis and Findings

- 2.6.4 The DC notes the submissions made by Mr. Arumugam that in the final list of PRAs the name of only Mr. Mohana Prasath appears, however in the resolution plan submitted apart from Mr. Mohana Prasath two other people were added as resolution applicants.
- 2.6.5 It is crucial to note that Regulation 36A (8) of CIRP Regulations mandates the RP to conduct due diligence based on the material on record in order to satisfy that the prospective resolution applicant complies with- (a) the provisions of clause (h) of sub-section (2) of Section 25; (b) the applicable provisions of Section 29A, and (c) other requirements, as specified in the invitation for expression of interest. Post such due diligence, the RP issues a provisional list of eligible prospective resolution applicants within ten days of the last date for submission of an expression of interest to the committee and to all prospective resolution applicants who submitted the expression of interest. Further, on considering the objections to the inclusion or exclusion of a prospective resolution applicant, received if any, the RP issues the final list of prospective resolution applicants to the CoC.
- 2.6.6 The DC views that failing to mention the names of individuals who are co-applicants in the resolution plan could mislead the CoC and other PRAs and jeopardize the process. It is the duty of the RP to maintain records and disseminate information so as to sufficiently enable a person to take a view on the appropriateness of his decisions and actions. The RP is expected to display high standard of care, skill and diligence. The RP must act with objectivity in its professional dealings by ensuring that his decisions are made without the presence of any bias, conflict of interest, coercion, or undue influence of any party, whether directly connected to the insolvency proceedings or not.
- 2.6.7 In view of the above, the DC finds that failure to provide all names of the participants of PRA in the final list constitutes negligence and dereliction of duty on the part of RP. The DC holds the contravention of Sections 208(2)(a) and (e) of the Code, Regulation 7(2)(a)

and (h) of the IP Regulations read with Clause 3, 5 and 14 of the Code of Conduct for IPs specified thereunder.

2.7 Failure to file application timely before the AA for extension of CIRP

2.7.1 It was observed that Mr. Arumugam continued to conduct the CoC meetings (22nd and 23rd) even after the extended period of CIRP was over on 16.06.2023. He did so in the absence of any order of AA extending the CIRP period. Section 12(2) of the Code provides that the RP shall file an application to the AA to extend the period of the CIRP beyond 180 days, if instructed to do so by a resolution passed at a meeting of the CoC by a vote of sixty-six per cent of the voting shares.

2.7.2 In view of the above, the Board held *prima facie* view that Mr. Arumugam had violated had Sections 12(2), 208(2)(a) and (e) of the Code, Regulation 7(2)(a) and (h) of the IP Regulations read with Clause 14 of the Code of Conduct for IPs specified thereunder.

Submissions by Mr. Arumugam

2.7.3 Mr. Arumugam submitted that the CoC meeting was conducted after the extended period of CIRP with the permission of the AA. Further, it has been held by AA that there is no bar in conducting CoC before the liquidation order is passed.

Analysis and Findings

2.7.4 The DC accepts the submission of Mr. Arumugam.

2.8 Failure to reimburse the ratified amount to the OC/ applicant

2.8.1 It was observed from the minutes of 4th CoC meeting that the erstwhile IRP incurred total expense of Rs.4,88,270 for the period from 25.07.2022 till 31.08.2022. Out of this, only Rs.2,80,270 was ratified. As per Regulation 33(3) of the CIRP Regulations, the applicant has to be reimbursed the amount to the extent ratified by the CoC. IP's response to the IA regarding the same was evasive. Accordingly, it appears that the said amount has not been reimbursed to the OC/ applicant.

2.8.2 In view of the above, the Board held *prima facie* view that Mr. Arumugam had violated Regulation 33(3) of the CIRP Regulations, Regulation 7(2)(a) and (h) of the IP Regulations read with Clause 14 of the Code of Conduct for IPs specified thereunder.

Submissions by Mr. Arumugam

2.8.3 Mr. Arumugam submitted that there were no funds available with the CD therefore the amount was not paid to the Applicant. He further submitted that the same shall be paid after the approval of Resolution Plan by the AA or during the Liquidation period as per Section 53 of the Code.

Analysis and Findings

2.8.4 The DC accepts the submission of Mr. Arumugam.

2.9 Submission of resolution plan without performance bank guarantee (PBG)

- 2.9.1 It was observed that no PBG was submitted along with the application for approval of the resolution plan filed on 02.05.2023 with the AA, by the IP. The PBG was in fact provided on 11.07.2023 and 14.07.2023. Regulation 39(4) of the CIRP Regulations mandates the RP to submit the resolution plan to the AA, along with the evidence of receipt of performance security.
- 2.9.2 In view of the above, the Board held the *prima facie* view that Mr. Arumugam had violated Sections 208(2)(a) and (e) of the Code, Regulation 39(4) of the CIRP Regulations, Regulation 7(2)(a) and (h) of the IP Regulations read with Clause 14 of the Code of Conduct for IPs specified thereunder.

Submissions by Mr. Arumugam

- 2.9.3 Mr. Arumugam submitted that the CoC had given approval thus no PBG was submitted along with the application for approval of the resolution plan and subsequently the same was provided.

Analysis and Findings

- 2.9.4 Regarding the submission of resolution plan for approval before the AA without performance bank guarantee (PBG), the DC notes the submissions made by Mr. Arumugam that “*the CoC had given approval thus no PBG was submitted along with the application for approval of resolution plan and subsequently the same was provided*”.
- 2.9.5 It is to be noted that Regulation 36(4A) of CIRP Regulations mandates that “*The request for resolution plans shall require the resolution applicant, in case its resolution plan is approved under sub-section (4) of section 30, to provide a performance security within the time specified therein...*”.

Further, Regulation 39(4) of the CIRP Regulations states

“Regulation 39 Approval of resolution plan.

...(4) The resolution professional shall endeavour to submit the resolution plan approved by the committee to the Adjudicating Authority at least fifteen days before the maximum period for completion of corporate insolvency resolution process under section 12, along with a compliance certificate in 143[Form H of the 144[Schedule-I] and the evidence of receipt of performance security required under sub-regulation (4A) of regulation 36B.] ...”

- 2.9.6 Thus, it is mandatory to submit the Performance Bank Guarantee (PBG) along with the resolution plan approved by the Committee of Creditors (CoC) before the Adjudicating Authority (AA). The RP is duty bound to guide the CoC regarding the mandatory provisions of the Code read with regulations. Compliance with the mandatory provisions is imperative, and the RP must adhere to these strictly. The Performance Bank Guarantee (PBG) for a resolution plan is required to ensure the seriousness, credibility, and commitment of the resolution applicant in implementing the approved plan. Non-submission of the Performance Bank Guarantee (PBG) could lead to the rejection of the resolution plan, delays in the insolvency resolution process, and possible unwarranted legal consequences. The RP is obligated to ensure that all requirements, including the submission of the PBG, are met before presenting the resolution plan to the AA.

2.9.7 In view of the above, the DC finds that non-submission of the Performance Bank Guarantee (PBG) along with the resolution plan constitutes a dereliction of duty. Hence, the DC finds that Mr. Arumugam has violated Sections 208(2)(a) and (e) of the Code, Regulation 39(4) of the CIRP Regulations, Regulation 7(2)(a) and (h) of the IP Regulations read with Clause 14 of the Code of Conduct for IPs specified thereunder.

2.10 Power cut

2.10.1 It was observed that there was a power cut during 7th and 13th CoC meeting. However, Mr. Arumugam failed to send the link for the remainder of the said meetings after the interruption due to power cut. As per Regulation 23(2) of CIRP Regulations the RP shall make necessary arrangements to ensure uninterrupted and clear video, audio and visual connection. Further, Regulation 23(3)(b) states that the RP shall take due and reasonable care to ensure the availability of proper video conferencing or other audio and visual equipment or facilities for providing transmission of the communications for effective participation of the participants at the meeting.

2.10.2 In view of the above, the Board held *prima facie* view that, Mr. Arumugam had violated Sections 208(2)(a) and (e) of the Code, Regulation 23(2) and 23(3)(b) of the CIRP Regulations, Regulation 7(2)(a) and (h) of the IP Regulations read with Clause 14 of the Code of Conduct for IPs specified thereunder.

Submissions by Mr. Arumugam

2.10.3 Mr. Arumugam submitted that since the meeting was concluded and only after that power cut occurred in his place, therefore he did not send another link to continue the CoC meeting.

Analysis and Findings

2.10.4 The DC accepts the submission of Mr. Arumugam.

2.11 Difference in numbers mentioned in resolution plan and minutes of 20th CoC meeting

2.11.1 It was observed that there were differences in the numbers mentioned in the approved resolution plan shared with the IA and the minutes of the 20th CoC meeting. In the approved resolution plan, the value of the resolution plan or the funds required under the resolution plan was mentioned as Rs.7,20,76,108. However, in the minutes of 20th CoC meeting, the amount payable as per the approved plan was mentioned as Rs.7,18,96,000. Therefore, there was a difference of Rs. 1,80,108 between these two documents. Further, the amount of FD with the bank was mentioned as Rs.2,70,00,000 in the approved resolution plan. However, in the minutes of 20th CoC meeting, it was mentioned as Rs.2,42,13,943.

2.11.2 In view of the above, the Board held a *prima facie* view that Mr. Arumugam had violated Sections 208(2)(a) and (e) of the Code, Regulation 7(2)(a) and (h) of the IP Regulations read with Clause 2 and 14 of the Code of Conduct for IPs specified thereunder.

Submissions by Mr. Arumugam

2.11.3 Mr. Arumugam submitted that the difference in valuation in the Resolution Plan with 20th

CoC meeting because of non-approval of minimum fees of RP and licence fees, a lesser amount was mentioned in 20th CoC meeting, and the correct amount was mentioned in the Resolution Plan. He further submitted that as per the Bank communication the FD amount was Rs. 2,42,13,943. However, without verification, the PRA had mentioned in the Resolution Plan as 2.70 Crores.

Analysis and Findings

2.11.4 The DC accepts the submission of Mr. Arumugam.

In the matter of M/s. Vijai Spinners (RJPM) Private Limited (CD-2)

2.12 Issue w.r.t. seeking advice of SCC

2.12.1 It was observed from Mr. Arumugam's reply to the IA that he did not conduct e-voting for the resolution pertaining to issue of auction notice, in 3rd SCC meeting held on 25.04.2023, "as the decision is on every member's consent including the suspended director". The said e-auction notice for sale of assets of the CD was published on 27.04.2023. Regulation 31A(9) of the IBBI (Liquidation Process) Regulations, 2016 (Liquidation Regulations) provides that the SCC shall advise the liquidator, by voting not less than sixty-six percent of the representatives of the consultation committee, voting. Though the minutes of 3rd SCC meeting mention that the Committee decided to go for advertisement, the percentage of voting share of each stakeholder and the process followed to conduct voting had not been elaborated in the minutes, indicating towards non-transparency in eliciting and recording opinion of stakeholders on the resolutions mentioned therein.

2.12.2 In view of the above, the Board was of the *prima facie* view that Mr. Arumugam had violated Sections 208(2)(a) and (e) of the Code read with Regulation 31A (9) of the Liquidation Regulations, Regulation 7(2)(a) and (h) of the IP Regulations and Clause 14 of the Code of Conduct for IPs specified under.

Submissions by Mr. Arumugam

2.12.3 Mr. Arumugam submitted that the 3rd SCC meeting had approved the issue of Auction Notice as there was only one member in the SCC namely, Canara Bank who had approved the said notice, it was deemed that it was approved with 99.91% voting share. He further submitted that the very same issue had been referred to IPA and after enquiry, the IPA decided that there was no violation on his part.

Analysis and Findings

2.12.4 The DC accepts the submission of Mr. Arumugam.

3. ORDER

3.1. In view of the foregoing, the DC finds that the failure by Mr. Arumugam Arumugam to provide/submit (a) significant information in the IM, (b) all names of participants of PRA in the final list of PRAs, and (c) PBG along with the application for approval of resolution plan before the AA, constitute negligence and dereliction of duty on the part of Mr. Arumugam. Hence, the DC, in the exercise of the powers conferred under Section 220 of the Code read with Regulation 13 of the IBBI (Inspection and Investigation) Regulations,

2017 and Regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016 hereby suspends the registration of Mr. Arumugam Arumugam for a period of one year.

- 3.2. This Order shall come into force after the expiry of 30 days from the date of its issuance.
- 3.3. A copy of this order shall be sent to the CoC of Madurai Kirshna Network Private Limited (CD-1) in which Mr. Arumugam Arumugam is providing his services, if any. The CoC may decide whether to continue his services or not. In case, the CoC decide to discontinue his services, the CoC may file an appropriate application before AA.
- 3.4. A copy of this order shall be forwarded to the Insolvency Professional Agency of the Institute of Cost Accountants of India where Mr. Arumugam Arumugam is enrolled as a member.
- 3.5. 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.
- 3.6. Accordingly, the show cause notice is disposed of.

Sd/-

(Jayanti Prasad)
Whole Time Member
Insolvency and Bankruptcy Board of India

Sd/-

(Ravi Mital)
Chairperson
Insolvency and Bankruptcy Board of India

Dated: 18th February 2025

Place: New Delhi