

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 324 of 2019

IN THE MATTER OF:

Insolvency and Bankruptcy
Board of India (IBBI)

.... Appellant

Vs

Shri Rishi Prakash Vats & Ors.

.... Respondents

Present:

For Appellant: Present but appearance not marked.

**For Respondents: Mr. Apoorv Sarvaria with Mr. Manas Shukla,
Advocates for Respondent No.1.**

ORDER

11.07.2019 This Appeal has been preferred by the Insolvency and Bankruptcy Board of India (hereinafter referred to as the 'IBBI') against order dated 5th February, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench quashing the disciplinary proceedings initiated by IBBI.

2. The only question arises for consideration in this Appeal is whether the Adjudicating Authority/ National Company Law Tribunal has jurisdiction to quash the disciplinary proceedings once initiated by the IBBI.

3. On hearing the IBBI, we are of the view that once a disciplinary proceeding is initiated by the IBBI on the basis of evidence on record, it is for the Disciplinary Authority, i.e., IBBI to close the proceeding or pass appropriate orders in accordance with law. Such power having been vested

with IBBI and in absence of any power with the Adjudicating Authority/ (National Company Law Tribunal), the Adjudicating Authority cannot quash the proceeding, even if proceeding is initiated at the instance and recommendation made by the Adjudicating Authority/ National Company Law Tribunal.

4. In the present case, we find that ‘Corporate Insolvency Resolution Process’ was initiated against Rana Global Limited (‘Corporate Debtor’), in which Mr. Rishi Prakash Vats (1st Respondent) was appointed as a ‘Resolution Professional’. For certain reason, ‘Corporate Insolvency Resolution Process’ was delayed and the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench passed order dated 26th April, 2018, which reads as follows: -

“The matter had been listed on 25th April, 2018 for report of the RP. The petition filed by the PNB had been admitted vide an order dated 23rd March, 2018. The IRP has taken no steps till date merely because of a typographical error in his name as Shri Rishi Prakash Vats has been typed out as Shri Rishi Kumar Vats. However, it is not denied that address namely, Suit no.1, 19, Park Area, Karol Bagh, New Delhi-110005 or his Registration Number IBBI/IPA-002/IPN00248/2017-18/10733, Email ID: rpvats@vgclawfirm.com were correct. It is also inexplicable as to why the Financial Creditor has considered it fit now at this stage after more than a month to seek correction. Such a lackadaisical attitude in such proceedings is inexplicable. It would be necessary and expedient to bring it to the notice of the IBBI for an appropriate action.”

5. As the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench observed lackadaisical attitude in such proceedings is inexplicable and the matter be brought to the notice of the IBBI for an appropriate action, pursuant to the aforesaid direction, a disciplinary proceeding was initiated against 1st Respondent.

6. Subsequently, the 1st Respondent Mr. Rishi Prakash Vats filed certain explanation before the Adjudicating Authority, showing the reasons for delay for execution of the 'Corporate Insolvency Resolution Process'. Since, the proper explanation was given by the 'Resolution Professional', the Adjudicating Authority expunged the earlier observation made on 26th April, 2018 and IBBI was informed. As IBBI continued proceeding Adjudicating Authority passed impugned order on 5th February, 2019 and the disciplinary proceedings have been quashed. We have already noticed that once a disciplinary proceeding is initiated, the final order is required to be passed by the IBBI. Expunge of the earlier order made by the Adjudicating Authority on 26th April, 2018 may be a good ground to close the proceeding, but the Adjudicating Authority/ National Company Law Tribunal cannot quash the proceeding initiated by the IBBI.

7. For the reasons aforesaid, we set aside the last portion of the impugned order dated 5th February, 2019 relating to quashing of all disciplinary proceedings. The matter is remitted to the IBBI to pass appropriate order taking into consideration the reference of initiation of proceeding by the Adjudicating Authority as made on 26th April, 2018 and later acceptance of

explanation. The 'Resolution Professional' has already been expunged and it is expected that an order of closure will be passed at an early date. The Appeal stands disposed of. No cost.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A.I.S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

Ash/GC