

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 368 of 2019**

**IN THE MATTER OF:**

**Gaurav Hargovindbhai Dave**

**...Appellant**

**Versus**

**Hema Manoj Shah & Ors.**

**...Respondents**

**Company Appeal (AT) (Insolvency) No. 388 of 2019**

**IN THE MATTER OF:**

**Vishal Dave**

**...Appellant**

**Versus**

**Hema Manoj Shah & Ors.**

**...Respondents**

**Present:**

**For Appellant :**

**Mr. Aditya Parolia and Mr. Kumar Pradyuman,  
Advocates**

**For Respondents:**

**Mr. Mudit Sharma and Ms. Prajakta Kulkarni and  
Ms. Nandini Sharma, Advocates**

**Ms. Hema Shah, RP**

**O R D E R**

**22.04.2019** These appeals have been preferred by 'Mr. Gaurav Hargovindbhai Dave' and 'Mr. Vishal Dave', who were respectively Director/Shareholder and son of the Director of the 'Corporate Debtor', against order dated 28<sup>th</sup> March, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, Mumbai, whereby the Adjudicatory Authority noticed the submission made by the 'Resolution Professional' and

observed that despite the directions Mr. Gaurav Dave and Mr. Vishal Dave had not appeared in the Court and their action is in complete disregard of Court orders and the Adjudicating Authority ordered for Contempt of Court proceedings against them. Thereafter, notice was issued in the Contempt proceedings, Mr. Vishal Dave and Mr. Gaurav Dave having failed to appear before the Adjudicating Authority and to ensure their presence, the Adjudicating Authority passed the following order :

*“We at this moment direct Mr. Sandeep Shah, Statutory Auditor of the company to remain present in person the Court on 15.4.2019. Advocate appearing on behalf of Mr. Gaurav Dave is being directed to inform the statutory Auditor of the company for his presence on 15.4.2019.*

*Mr. Gaurav Dave and Mr. Vishal Dave are again summoned to submit their explanation, against the notice, which has been issued under the Contempt of Court Act.”*

2. Learned counsel appearing on behalf of the Appellants submitted that the Appellants wanted to co-operate with the ‘Resolution Professional’ and in fact the ‘Resolution Professional’ has taken over the charge of the ‘Corporate Debtor’. He further submits that he has come with the keys of the office of the ‘Corporate Debtor’ to hand over to the ‘Resolution Professional’.

3. Learned counsel appearing on behalf of the ‘Resolution Professional’ along with Ms. Hema Shah, RP submitted that the Appellants – Mr. Gaurav Dave and Mr. Vishal Dave all the time created hindrances and in fact tampered with the

property and many of the materials have been taken away and electricity has been disconnected and they have not co-operated and handed over the charge. It is further submitted that earlier the Appellants moved before this Appellate Tribunal when this Appellate Tribunal dismissed the appeal on 25<sup>th</sup> March, 2019 with cost of Rs. 1,00,000/-, which has not been paid by the appellants.

4. In the facts and circumstances of the case while we dismiss the appeal, we impose cost of Rs. 5,00,000/- (Rupees Five Lakhs only) on each of the appellants in addition to the cost earlier imposed which is to be paid by the Appellants within 30 days.

5. Insofar as initiation of Contempt Proceedings, we have not expressed any opinion as the Contempt Proceeding matter is pending before the Adjudicating Authority who will decide the same.

[Justice S.J. Mukhopadhaya]  
Chairperson

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

[ Kanthi Narahari ]  
Member (Technical)

/ns/gc