

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 269 of 2019

IN THE MATTER OF:

Sudhir Khurana

...Appellant

Vs.

Usha Devi & Anr.

...Respondents

Present: For Appellant: - Mr. Anuj Tiwari, Advocate.

For Respondents: - Mr. Rakesh Kumar, Advocate.

O R D E R

04.09.2019— This appeal has been preferred by Mr. Sudhir Khurana, who is a Director of 'M/s. Praveer Constructions Private Limited'- ('Corporate Debtor') against the order dated 4th February, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Special Bench, New Delhi.

2. In the impugned order dated 4th February, 2019, the Adjudicating Authority noticed that the Appellant- Mr. Sudhir Khurana is not co-operating with the 'Resolution Professional' and raising only one contention that there was no default and the whole account was settled by Agreement dated 28th March, 2012. The application filed by the 'Resolution Professional' was ordered to be served on the Appellant- Mr. Sudhir Khurana for reply and for further orders.

3. Earlier, on 23rd May, 2019, when the matter was taken up, this Appellate Tribunal noticed that the Appellant and other Promoters are

not co-operating with the 'Resolution Professional' nor appeared before the Adjudicating Authority on the ground that they have moved before this Appellate Tribunal, we directed the Respondents to file reply and ordered to list the case on 2nd July, 2019 with direction to the Appellant and other Promoters to hand over all the records and assets of the 'Corporate Debtor' to the 'Resolution Professional'.

4. Subsequently, when the matter was taken up on 2nd July, 2019, learned counsel for the Appellant submitted that the Writ Petition No. 713 of 2019 has been preferred by the Appellant before the Hon'ble Supreme Court challenging the constitutional validity of the explanation added to Section 5(8) of the Insolvency and Bankruptcy Code, 2016 ('I&B Code' for short).

5. However, subsequently on 26th August, 2019, we noticed that the Hon'ble Supreme Court has dismissed those Writ Petitions preferred by the Real Estate Promoters/ Builders.

6. On 26th August, 2019, again we noticed that the Appellant is neither co-operating with the 'Resolution Professional' nor appeared before the Adjudicating Authority or handed over the assets of the 'Corporate Debtor'. We directed the Appellant to appear before the 'Resolution Professional' and also to handover the records and assets of the 'Corporate Debtor', except if on that count order of stay has been passed by the Hon'ble Supreme Court.

7. However, it is informed that there is no order of stay in favour of the Appellant and counsel for the 'Resolution Professional' informed that records have not been handed over and the Appellant is not appearing before the Adjudicating Authority and the Adjudicating Authority has issued Bailable Warrant of arrest against the Appellant. However, the said order of Bailable Warrant is not under challenge in this appeal.

8. In view of the aforesaid facts and looking to the conduct of the Appellant as appearing from record, we do not find any reason to interfere with the impugned order.

The appeal is dismissed with costs of Rs.1 lakh to be paid by the Appellant in favour of the Registrar, National Company Law Appellate Tribunal within 30 days.

(Justice S.J. Mukhopadhaya)
Chairperson

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

(Kanthi Narahari)
Member(Technical)

Ar/g