

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 140 of 2017

IN THE MATTER OF :

Vinod Kumar Kapoor

... Appellant

Versus

Vijay Khanna & Ors.

... Respondents

Present: For Appellant: Mr. R.S. Bhatia, PCS.

For Respondents: Mr. V. Hari Pillai, Advocate.

ORDER

21.09.2017 — This appeal has been filed by Appellant / Contemnor - Mr. Vinod Kumar Kapoor against the order dated 13th April, 2017 passed by National Company Law Tribunal (hereinafter referred to as “Tribunal”) New Delhi in Contempt Petition No. 3(ND)2017 arising out of Company Petition No. 69/2003, wherein for non-compliance of the order passed by the Tribunal the following punishment has imposed on the appellant: -

“9. I therefore deem it just, fit and expedient in the facts of this case to direct the following:

a. Impose a costs of Rs.5 lacs on the Contemnor no.2, the Managing Director of the Respondent Company, who was solely liable to take the required steps in furtherance of the order dated 10.06.2013 and further

Undertaking given by him on 14.08.2014. Failure to pay this amount from his personal account shall necessitate attachment and sale of the Company's property to be duly appropriated from his shareholding and/or attachment and sale of his personal assets. Costs is to be paid to the equitably to the petitioners.

b. Direct simple imprisonment of Shri. Vinod Kumar Kapoor, Contemnor no.2 for a period of one month for the wilful breach of the undertaking dated 14.08.2014 given to the Court.

10. The warrants of arrest be issued by the Registrar NCLT to be executed by the lad. CMM, Central District through the District Judge-I, Tis Hazari, Delhi."

2. Notice was issued on respondents and they have appeared. The appellant in his affidavit while asked for unconditional and unqualified apology, has taken plea that the order passed by the Tribunal in Company Petition No. 69 of 2003 have been complied in its letter and spirit. It is also informed that as per the impugned order cost of Rs. 5,00,000/- (Rupees Five Lakhs only) as imposed on the Managing Director of the Company has also been paid.

3. Learned Counsel appearing on behalf of the respondents accepts that the order passed by Tribunal in Company Petition has been complied by the appellant and the cost as imposed by Tribunal has been paid. It is informed that the TDS certificate will be handed over to the appellant by 15th October, 2017.

4. Mr. Vinod Kumar Kapoor, who is the Managing Director (Contemnor No.2) is present in person. He personally tendered 'unconditional and unqualified apology' and submits that he had no intention to violate the orders and directions passed by the Tribunal.

5. In view of the stand taken by the parties and taking into consideration the fact that the appellant (Contemnor No.2) has complied with the original order passed by the Tribunal and has also paid the cost of Rs. 5,00,000/- (Rupees Five Lakhs only) as imposed by impugned order and that he is personally appeared and sought for unconditional and unqualified apology after compliance of the Tribunal's order, we set aside the part of the impugned order as passed in the last portion of clause (a) and total order as contained in clause (b) of paragraph no. 9 as also the order as contained in paragraph no.10 of the impugned order, which reads as follows: -

"9 (a) Failure to pay this amount from his personal account shall necessitate attachment and sale of the Company's property to be duly appropriated from his shareholding and/or attachment and sale of

his personal assets. Costs is to be paid to the equitably to the petitioners.

b. Direct simple imprisonment of Shri. Vinod Kumar Kapoor, Contemnor no.2 for a period of one month for the wilful breach of the undertaking dated 14.08.2014 given to the Court.

10. The warrants of arrest be issued by the Registrar NCLT to be executed by the lad. CMM, Central District through the District Judge-I, Tis Hazari, Delhi.”

6. The impugned order passed by the Tribunal stands modified to the extent above. The appeal stands disposed of with aforesaid observations. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

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

(Balvinder Singh)
Member(Technical)

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