

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 1361-1362 of 2019

In the matter of:

Directorate of Economics Offences

....Appellant

Vs.

Binay Kumar Singhania & Ors.

....Respondents

Present:

Appellant: Mr. S. N. Mookherjee, Sr. Advocate with Mrs. Nandini Sen, Advocate.

**Respondents: Mr. Gaurav Mitra and Mr. Kanishk Khetan, Advocates for R-1 (Liquidator)
Mr. Kamal Kant Jha, Sr. Panel Counsel with Mr. Prabhakar Thakur, Advocate for R-4 (MCA)**

ORDER

05.02.2020: Heard learned Counsel for the parties. The limited issue raised in these Appeals is with regard to slapping the Appellant - Directorate of Economic Offences (DEO) with liability to pay Rs.5 Lakhs for not cooperating with the Resolution Professional in compliance to directions of the Hon'ble High Court.

2. After hearing learned Counsel for the parties, we are of the considered opinion that the contumacious conduct attributed to the Appellant - Delinquent Officer of the DEO for not extending cooperation to the Resolution Professional in carrying forward the process of resolution may be violative of the directions of the Hon'ble High Court rendering being hauled up for Contempt of Court, same could not be linked with the order of liquidation,

there being no nexus between the two. Order of liquidation, not assailed herein, rests on its own considerations independent of conduct of Appellant.

3. Thus, we are of the opinion that while passing the order of liquidation, the Adjudicating Authority exceeded its jurisdiction in slapping the Appellant with liability of costs, which in fact was the penalty imposed for the alleged contumacious conduct. In our opinion, this part of the order cannot be supported. These Appeals are accordingly allowed to this extent.

[Justice Bansi Lal Bhat]
Member (Judicial)

[V. P. Singh]
Member (Technical)

[Shreesha Merla]
Member (Technical)

am/ha/nn