

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

**Company Appeal (AT) (Insolvency) No. 1508 of 2019**

**IN THE MATTER OF:**

**Jharkhand Bijli Vitran Nigam Ltd.**

**...Appellant**

**Versus**

**M/s. Tayo Rolls Ltd. & Ors.**

**...Respondents**

**Present:**

**For Appellant :**           **Mr. Himanshu Shekhar, Mr. Aabhas Parimal and Mr. Jamnesh Kumar, Advocates**

**For Respondents :**       **Mr. Ritesh Khare, Advocate and Mr. Anish Agarwal, Resolution Professional**  
**Mr. Rahul Adlakha, Advocate**  
**Mr. Sabhay Choudhary, Advocate for 3<sup>rd</sup> Respondent**

**O R D E R**

**16.01.2020**       This appeal has been preferred by ‘Jharkhand Bijli Vitran Nigam Ltd.’ against the part of the order dated 30<sup>th</sup> October, 2019 whereby the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata dismissed the application preferred by the Appellant and imposed a cost of Rupees One Lakh each to be paid to the Resolution Professional by the Appellant.

In C.A. (IB) No. 840/KB/2019, the Appellant made certain fraudulent allegations against the erstwhile ‘Resolution Professional’. However, in C.A. (IB) No. 1008/KB/2019 for replacement of the ‘Resolution Professional’.

On service of notice, Mr. Sabhay Choudhary, Advocate appears on behalf of erstwhile Resolution Professional - Ms. Vinita Agarwal.

Mr. Rahul Adlakha, Advocate appears on behalf of Mr. Anish Agarwal, ‘Resolution Professional’, who replaced the earlier ‘Resolution Professional’.

On hearing the learned counsel for the parties, we are of the view that while Adjudicating Authority did not accept the allegations against the erstwhile Resolution Professional – ‘Ms. Vinita Agarwal, and rightly dismissed the application, we hold that it is not a fit case to impose cost for two reasons :

- 1) ‘Jharkhand Bijli Vitran Nigam Ltd.’ is a Public Sector Undertaking and if the cost is imposed, it will practically charge on the consumers.
- 2) If the allegations are wrong, for one or other reason, the application for replacement of Ms. Vinita Agarwal was allowed, that means the case is made out to replace the earlier Resolution Professional.

In the circumstances, we affirm the part of the impugned order dated 30<sup>th</sup> October, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata and whereby C.A. (IB) No. 840/KB/2019 and C.A.(IB)NO. 970/KB/2019 was dismissed and set aside the part of the order whereby the cost of Rupees One Lakh – ‘Jharkhand Bijli Vitran Nigam Ltd.’ was imposed on the Appellant to be paid in favour of the erstwhile Resolution Professional.

The appeal stands disposed of. No costs.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansi Lal Bhat ]  
Member (Judicial)

/ns/sk/