

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 855 of 2019

IN THE MATTER OF:

Bhawana Gupta **...Appellant**

Vs.

M/s. Invest Care Pvt. Ltd. **...Respondent**

Present: For Appellant: - Mr. Manoj Khanna and Mr. M.K. Singh, Advocates.

For Respondent: - Mr. Ashaf Rajan, Advocate.

O R D E R

17.09.2019— The Appellant (employee of the ‘Corporate Debtor’) has challenged the order dated 10th July, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Court-III, New Delhi, whereby the application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“I&B Code” for short) was dismissed for non-prosecution. The order reads as follows:

“ORDER

Vide Order dated 08.05.2019, based on the request of Learned Counsel for the petitioner, two weeks time was granted in order to comply with the Order dated 15.4.2019. Even though two months have passed, a representation is made on behalf of Ld. Counsel for the petitioner that in view of the

Contd/-.....

change of Vakalatnama, the Counsel has been newly appointed is required to apprise himself of the filings with this Tribunal and about the pleadings and the documents as filed by the petitioner on 10.09.2018 and in the circumstances, seeks for some time which is vehemently opposed by the Counsel opposite. This Tribunal had noticed that this petition has been filed in the year 2018 and that the pleadings in the matter are complete. It is brought to the notice of this Tribunal by Ld. Counsel for the Corporate Debtor that on 15.4.2019, the petitioner had commenced the arguments and during the course of arguments, it was recorded on the said day to co-relate annexures and service of Section 8 Notice within a week. However, on the pretext of change of Vakalatnama, time is sought merely being a delaying tactic being adopted by the petitioner, we are not inclined to grant further time. Since IBC matter, being a time bound process as specified under the provisions of IBC, 2016, hence, there is an obligation on the part of this Tribunal to dispose of the same within the time frame and hence this delaying tactic on the part of the petitioner is required to be condemned by this Tribunal.

Under the above circumstances, we are unable to grant further time to the petitioner and hence, the petition stands dismissed.”

2. Notice was issued to Respondent. Mr. Ashaf Rajan, Advocate has appeared on behalf of the Respondent- ('Corporate Debtor').

3. It appears that two weeks' time was granted by the Adjudicating Authority for removal of certain defects, which was not done within the said period because of the change of Lawyer. However, subsequently it is stated that it has been complied.

4. Taking into consideration the facts and circumstances of the case, we are of the view that the matter should be heard on merit.

5. For the said reason, we set aside the order dated 10th July, 2019 passed by the Adjudicating Authority and restore IB-1280/ND/2018 to its original file. The Adjudicating Authority will notice both the parties and after hearing the parties to consider the matter in accordance with law and pass appropriate orders.

The appeal stands disposed of with aforesaid observations and directions. No costs.

(Justice S.J. Mukhopadhaya)
Chairperson

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

(Kanthi Narahari)
Member(Technical)

Ar/g