

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 2166 of 2024

IN THE MATTER OF:

Bhavik Haribhai Rupapara

...Appellant(s)

Versus

Canara Bank & Ors.

...Respondent(s)

Present:

For Appellant(s) : Mr. Asav Rajan, Mr. Mayank Biyani & Mr. Kashish Chadha, Advocates for Appellant.

For Respondent(s) : Mr. Sunil Kumar, Advocate for Respondent.

ORDER
(HYBRID MODE)

31.07.2025: The IRP against whom the Adjudicating Authority has entered certain findings and recommended necessary action by the IBBI in its order dismissing a petition filed by a personal guarantor under Section 94 of IBC, is now before this Tribunal challenging it.

2. The facts fall within a very narrow campus

- On 12.02.2024 a certain personal guarantor instituted a petition under Section 94 of IBC. On 29.01.2024 the Adjudicating Authority appointed the appellant as the IRP. On 07.02.2024 order appointing him as an IRP was received by the appellant.
- According to appellant on the very date on which he received the order of his appointment (07.02.2024), he had issued e-mails to the personal guarantor as well as to the corporate Debtor. Even as he was waiting for certain information, on 20.02.2024 he fell sick and was hospitalised for

more than a week (necessary medical certificate is enclosed in the paper book).

- On 28.02.2024, the appellant again e-mailed the personal guarantor as well as corporate debtors.
- On 06.03.2024 one of the creditors namely Canara Bank responded.
- On 05.04.2024 the appellant filed its interim report. However, there were some defects in the same. Be that as it may on 23.04.2014, personal guarantor had e-mailed the appellant, intimating him that the former proposed to withdraw his petition under Section 94 of IBC.
- Thereafter, on 13.08.2024, the appellant refiled his report. And on 27.09.2024 the Tribunal passed the impugned order under which it dismissed a very petition which the PG had decided to withdraw on the ground that the PG had instituted the petition only to enjoy an undeserving moratorium period. Indeed the Adjudicating Authority also slapped cost on the PG.
- So far as the appellant is concerned the Adjudicating Authority was of the view that when in terms of Section 99 of IBC, the appellant as IRP was excepted to file its report within ten days from the date of his appointment, he taking 187 days for filing the same demonstrates that he has been lackadaisical in his attitude. Taking exception to this attitude the tribunal required IBBI to initiate necessary action against the appellant.

As outlined earlier it is this portion of the impugned order which concerns the appellant is now under challenge.

3. The learned counsel for the appellant submitted that the appellant indeed has filed his interim report on 05.04.2024, but he was sick from 20.02.2024 for

more than a week, and that he was keen to do what he was expected to do as could be seen from the e-mail he had sent on 02.02.2024 and on 28.02.2024. He also submitted that in the refiling of the report, some delay has intervened but the appellant was slightly misled by the e-mail of the PG that he proposed to withdraw his petition filed under Section 94 IBC. The appellant bona fide believed that if the petition is allowed to be withdrawn then his exercise might go wasted.

4. Impressive that the submissions of the counsel might be, but this Tribunal underscores that the appellant is required not to make his own inferences, but ought to take instructions from the Adjudicating Authority. As long as the petition under Section 94 is on the file of the tribunal, the appellant's responsibility as an IRP to do all the statutory responsibilities required of him, does not cease. The appellant is required to be cautious in future.

5. For the present this tribunal only gives benefit of doubt to the appellant, and accordingly allows that part of the impugned order which concerns the appellant. It is made clear it has little to do with line of reasoning of the Adjudicating Authority in dismissing petition under section 94.

[Justice N. Seshasayee]
Member (Judicial)

[Indevar Pandey]
Member (Technical)

Shweta/SK