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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 10093/2019, CM Appl. Nos. 41730-41731/2019

RISHI PRAKASH VATS

..... Petitioner

Through: Mr. Chetan Sharma, Sr. Adv. with
Mr. Apoorv Sarvaria, Adv.

versus

INSOLVENCY AND BANKRUPTCY BOARD
OF INDIA AND ANR.

..... Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **18.09.2019**

CM Appl. No. 41731/2019 (Exemption)

Allowed subject to all just exceptions.

The application is disposed of.

W.P.(C) 10093/2019 and CM Appl. No. 41730/2019 (Stay)

Issue notice to the respondents, returnable on 12th December, 2019.

It is the case of the petitioner that the Disciplinary Enquiry against the petitioner was commenced by way of a Show Cause Notice dated 08.09.2018, which was premised on the observations made in the order dated 26.04.2018 passed by the National Company Law Tribunal (NCLT), New Delhi Bench in the matter of *M/s Punjab National Bank (Financial Creditor) vs. M/s Rana Global Limited (Corporate Debtor)* [(IB)-196(ND)2018].

The petitioner thereafter filed an application before the NCLT seeking expunging of the adverse remarks made in that order.

The NCLT by its order dated 17.09.2018, accepted the explanation of the petitioner and expunged the observations made in its order dated 26.04.2018.

In spite of the above order, as the respondent no. 2 continued with the Disciplinary Proceedings against the petitioner, the petitioner filed yet another application before the NCLT, on which, by an order dated 16.10.2018, the learned NCLT observed that the Show Cause Notice deserves to be recalled.

By a separate order passed on the same date, the NCLT also extended the time for reckoning of the CIRP proceedings and also excluded the period between 23.03.2018 to 16.04.2018 from the said period.

The respondent no. 1, thereafter, filed an application before the NCLT seeking review of the orders dated 17.09.2018 and 16.10.2018. Accepting the explanation offered by the petitioner herein, the NCLT by its order dated 05.02.2019, however, directed that all the Disciplinary Proceedings initiated by the respondent no. 1 against the petitioner be quashed and the matter be treated as closed.

Aggrieved by the said order dated 05.02.2019, the respondent no. 1 challenged the same before the National Company Law Appellate Tribunal (NCLAT) by way of an appeal, being Company Appeal (AT) (Insolvency) No. 324/2019. By the order dated 11.07.2019, the NCLAT accepted the submission of the respondent no. 1 that the direction to quash the Disciplinary Proceedings could not have been passed by the NCLT. At the same time, the learned NCLAT observed that as the adverse remarks against

the petitioner have already been expunged, “*it is expected that an order of closure will be passed at an early date.*”

In spite of the above observations of the NCLAT in the order dated 11.07.2019, the Impugned Order dated 21.08.2019 has been passed by the respondents, finding the petitioner guilty and imposing punishment on the petitioner as provided in paragraph 6.2 of the said order.

The learned senior counsel for the petitioner submits that in view of the order passed by the NCLT, expunging the adverse remarks against the petitioner, and the observations of the NCLAT in its order dated 11.07.2019, the respondents could not have levied the penalty by way of the Impugned Order without having any other adverse material against the petitioner. He further submits that the punishment imposed by the Impugned Order is even otherwise not sustainable under the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

Having considered the submissions made by the learned senior counsel for the petitioner, I find that the petitioner has been able to make out a *prima facie* case in his favour. The Impugned Order dated 21.08.2019 shall remain stayed till further orders.

It is further directed that the respondent no. 1 shall take appropriate steps to take down/block access to the Impugned Order till further orders of this Court.

Order *dasti* under the signature of the Court Master.

NAVIN CHAWLA, J

SEPTEMBER 18, 2019/sd