

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 847 of 2024

IN THE MATTER OF:

State Bank of India

...Appellant(s)

Versus

Mukesh Hariram Bansal

...Respondent(s)

Present:

For Appellant : Mr. Harshit Khare, Mr. Praful Saini, Advocates.

**For Respondents : Mr. Pankaj Bhattacharya, Ms. Raj Sarit Khare,
Advocates.**

O R D E R
(Hybrid Mode)

01.05.2024: Heard Learned Counsel for the Appellant as well as
Learned Counsel appearing for the Respondent.

2. This Appeal is filed against the order dated 17.04.2024 passed by the
Adjudicating Authority (National Company Law Tribunal, Ahmedabad Court-
2) in IA/514(AHM)2024 in C.P.(IB)/119(AHM)2023 by which the Adjudicating
Authority rejected the application filed by the State Bank of India for
replacement of the Resolution Professional and imposed the cost of Rs. 1 lakh.
The Adjudicating Authority on an application filed under Section 95 appointed
the Resolution Professional by order dated 11.03.2023. In the application filed
by the State Bank of India, no Resolution Professional name was nominated.
However, immediately after passing of the order, the State Bank of India filed
an application on 19.03.2023 being I.A. No. 514 (AHM) / 2024 praying for

replacement of the Resolution Professional. The reasons given in the application for replacement is that another Resolution Professional has already been looking after other personal guarantees insolvency of the group companies and the same Resolution Professional having recommended to be appointed and earlier Resolution Professional to be replaced.

3. The Adjudicating Authority by the impugned order proceeded and recorded that when the order was passed on 11.03.2023 why the State Bank of India has not complied the order and has not handed over the documents to the Resolution Professional to submitting the report.

4. Section 98 of the IBC provides for replacement of the Resolution Professional on sufficient ground. The State Bank of India in the application given the ground. Instead of advertng to said ground and considering the application on merit, the Adjudicating Authority proceeded to pass the order on the ground that why the documents were not given to the Resolution Professional appointed by the Adjudicating Authority hence the cost was also imposed. From the facts it is clear that the State Bank of India after one week on 19.03.2023 filed the application for replacement of Resolution Professional hence there was no occasion for State Bank of India to hand over the documents and asked for report preparation by the Resolution

Professional. When the immediate action was taken for replacement it ought to have been considered by the Adjudicating Authority.

5. We thus are of the view that Adjudicating Authority committed error rejecting the application and imposing the cost. The order impugned dated 17.04.2024 is set aside. We allow I.A. No. 514(AHM)/2024 and Resolution Professional as recommended by State Bank of India be appointed who may take further steps in accordance with law. The Appeal is disposed off.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

R.N./N.N.