

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 341 of 2019

IN THE MATTER OF:

Bhavna Sanjay Ruia

...Appellant

Vs

Insolvency and Bankruptcy Board of India

...Respondent

Present:

For Appellant: Mr. Pankaj Jain and Mr. Sagar Bansal, Advocates.

For Respondent:

ORDER

08.04.2019: This appeal has been preferred by 'Bhavna Sanjay Ruia' (Resolution Professional) against order dated 21st February, 2019 passed by 'Insolvency and Bankruptcy Board of India' (IBBI) in Disciplinary Committee of IBBI.

2. The Section 61 of I&B Code empowers an aggrieved person to file an appeal before this Appellate Tribunal:-

“61. Appeals and Appellate Authority. – (1)

Notwithstanding anything to the contrary contained under the Companies Act 2013 (18 of 2013), any person aggrieved by the order of the Adjudicating Authority under this part may prefer an appeal to the National Company Law Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be filed within thirty days before the National Company Law Appellate Tribunal:

Provided that the National Company Law Appellate Tribunal may allow an appeal to be filed after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal but such period shall not exceed fifteen days.

(3) An appeal against an order approving a resolution plan under section 31 may be filed on the following grounds, namely:—

- (i) the approved resolution plan is in contravention of the provisions of any law for the time being in force;*
- (ii) there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period;*
- (iii) the debts owed to operational creditors of the corporate debtor have not been provided for in the resolution plan in the manner specified by the Board;*

(iv) the insolvency resolution process costs have not been provided for repayment in priority to all other debts; or

(v) the resolution plan does not comply with any other criteria specified by the Board.

(4) An appeal against a liquidation order passed under section 33 may be filed on grounds of material irregularity or fraud committed in relation to such a liquidation order.”

3. From the aforesaid provision it will be clear that only against order passed by the Adjudicating Authority, this Appellate Tribunal can entertain appeal. No appeal is maintainable against order passed by Insolvency and Bankruptcy Board of India including its Disciplinary Committee.

4. In the circumstance, the appeal is dismissed being not maintainable. However, this order will not come in the way of the Appellant to move before appropriate forum for appropriate relief.

[Justice S. J. Mukhopadhaya]
Chairperson

am/gc