

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1091 of 2024

IN THE MATTER OF:

Bank Of Baroda **...Appellant**
Versus
Udham Singh Sharma & Anr. **...Respondents**

Present:

For Appellant : **Mr. Ashish Verma and Ms. Salonie Keshwani,**
Advocates.

For Respondents :

WITH

Company Appeal (AT) (Insolvency) No. 1092 of 2024

IN THE MATTER OF:

Bank Of Baroda **...Appellant**
Versus
Akshay Kumar & Anr. **...Respondents**

Present:

For Appellant : **Mr. Ashish Verma and Ms. Salonie Keshwani,**
Advocates.

For Respondents :

WITH

Company Appeal (AT) (Insolvency) No. 1093 of 2024

IN THE MATTER OF:

Bank Of Baroda **...Appellant**
Versus
Deepika Sharma & Anr. **...Respondents**

Present:

For Appellant : **Mr. Ashish Verma and Ms. Salonie Keshwani,**
Advocates.

For Respondents :

WITH

Company Appeal (AT) (Insolvency) No. 1094 of 2024

IN THE MATTER OF:

Bank Of Baroda

...Appellant

Versus

Praveen Sharma & Anr.

...Respondents

Present:

**For Appellant : Mr. Ashish Verma and Ms. Salonie Keshwani,
Advocates.**

For Respondents :

O R D E R
(Hybrid Mode)

29.05.2024: These four appeals have been filed by Bank of Baroda challenging of the same order dated 01.05.2024, by which Adjudicating Authority has although allowed the Restoration Application filed by the Bank of Baroda, but has imposed the cost of Rs. 1 Lakh.

2. The orders passed in all four Restoration Applications are identical. It is useful to extract the order passed in new Rest. A-46/2024 (out of which Company Appeal (AT) (Insolvency) No. 1091 of 2024 arises). The order is as follows:

“New Rest. A-46/2024:-

This application has been filed seeking the following prayers:-

- *Recall the order dated 13.03.2024.*
- *Pass directions for the Restoration / Revival of the Company Petition bearing CP (IB) No. 593/2021 titled "Bank of Baroda through Reshma Mittal vs Udham Singh Sharma" and/or;*

It is stated by the Learned Counsel appearing for the Applicant/Bank that the report filed by the Resolution Professional was not accepted because the AFA had expired and the Resolution Professional did not take proper step to get the AFA renewed. It is also stated that the amount of claim in this matter is about 14 crores.

Having regard to the facts and circumstances of the case, we recall our order dated 13.03.2024 and restore the IB-593(ND)/2021 to its original position, subject to payment of cost of Rs. 1,00,000/- by the Applicant to be deposited in Prime Minister's National Relief Fund within one week. The Applicant shall file proof of deposit within two days after depositing the cost. Learned Counsel appearing for the Applicant/Bank stated that an application seeking substitution of the Resolution Professional shall be filed shortly.

IA disposed of."

- 3.** On 13.03.2024, the Adjudicating Authority dismissed the application for non-prosecution noticing that no Reports have been filed by the Resolution Professional (RP) who was earlier directed to submit the Report in terms of Section 99 of the Insolvency and Bankruptcy Code, 2016.
- 4.** Learned Counsel for the Appellant submitted that in fact the RP has already submitted the Report which was noticed in the order dated 27.02.2024 but has not filed the AFA ("Authorisation for Assignment").
- 5.** From the order impugned, it is clear that the Adjudicating Authority was satisfied that sufficient grounds are made out to recall of the order, but while recalling it has imposed the cost of Rs. 1 Lakh.
- 6.** No reasons have been indicated in the order as to why the cost has been imposed on the Bank of Baroda because the liability to file AFA was of the RP and if there is lapse there was no reason to impose cost on the Appellant.
- 7.** We are of the view that imposition of cost need to be deleted.

8. In view of the above, the direction to impose the cost of Rs. 1 Lakh is deleted from order dated 01.05.2024.

All the appeals are disposed of accordingly.

[Justice Ashok Bhushan]
Chairperson

[Arun Baroka]
Member (Technical)

himanshu/nn