NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

17.07.2026

Present: JUSTICE N. SESHASAYEE, MEMBER (JUDICIAL)

BARUN MITRA, MEMBER (TECHNICAL)

I.A. No.4537 of 2026 in
Company Appeal (AT) (Ins) No. 1165 of 2026

Sachin Naveen Sinha **...Appellant**
Erstwhile Interim Resolution Professional

Vs

The Insolvency and Bankruptcy Board of India **...Respondent**
Through its Chairperson

For Appellant: Mr. Harshit Khare, Mr. Prafful Saini, Mr. Ayuj Agrawal, Mr. Brijesh Gupta, Advocates

For Respondent: Mr. Naveen Pawan, Sr. Advocate with Mr. Ashish Verma, Mr. Nikhil Thuhor, Mrs. Kriti, Mr. Rafid Akhtar, Advocates
Mr. Gaurav Mitra, Sr. Advocate with Mr. Asav Rajan, Mr. Kashish Chadha, Mr. Aditya Shah, Advocates

JUDGEMENT

Per Justice N. Seshasayee, Member (Judicial)

The appellant herein is a resolution professional, whose registration has been suspended by the IBBI for three years vide its proceeding dated, 08.06.2026, following a disciplinary proceeding it had initiated against it. This is now under challenge in this appeal.

2. Earlier, the Adjudicating Authority vide its Order dated 26.09.2025, in I.A.382/2025 in C.P.(IB) 63/9/JPR/2020 had removed the appellant as a resolution professional in a certain CIRP and also directed him to refund ₹.2.0 lakhs he had received as his initial remuneration besides recommending a disciplinary action against him by the IBBI. This Order of the Adjudicating Authority was challenged in C.A.1609 of 2025, wherein this tribunal has passed an interim Order of stay of the direction to return ₹.2.0 lakh.

3. Besides the CIRP from which the appellant was removed, there were three other CIRP in which the appellant has been appointed as a resolution professional. Now, by virtue of the Order impugned in this appeal, IBBI has removed him as the resolution professional. This Order of suspension was to take effect from 08.07.2026. The appellant's core contention is that, the IBBI, in exercise of its disciplinary jurisdiction, has the authority to remove a resolution professional only from a particular assignment in relation to which it had initiated a disciplinary proceeding against the resolution professional, and cannot ban him from functioning as a resolution professional with regard to others. Clearly, the appellant raises an issue on the extent of jurisdiction IBBI has.

4. Appeal against any decision made by the Disciplinary Committee of the IBBI, hitherto was only subjected to a juridical review of the statutory action of a statutory authority under Article 226 of the Constitution before the High Courts. However, vide IBC (Amendment) Act 6 of 2026, which came into effect on

22.05.2026, Parliament has vested first appellate jurisdiction on this tribunal vide the newly introduced Sec.220(7) IBC. It reads:

> *"Any person aggrieved by an Order of the disciplinary committee, under sub-section (2) to (5), may prefer an appeal to the National Company Law Appellate Tribunal within a period of thirty days from the date of receipt of the order."*

The provision, ex facie, does not limit the extent of jurisdiction which this tribunal may exercise. In other words, the provision tends to indicate that the jurisdiction of this tribunal is not limited to a mere examination of procedural compliance and processual fairness required of a legally sustainable disciplinary proceeding, but appears to enable a re-appraisal of the facts of such proceeding. However, the learned senior counsel for the IBBI differed on this point. This invited an argument on an interpretation of Sec.220(7) of the Code for its most probable understanding. This became critical in the context of the relief sought in I.A.4537 of 2026, which the appellant has filed for staying the operation of the impugned Order since it requires us to ascertain the extent of authority this tribunal may have to interfere with the extent of penal powers which the IBBI has assumed.

5. Besides the counsel for the parties hereto, we also had the advantage of hearing the arguments of Shri. Krishnendu Datta and Shri. Abhijit Sinha, both senior counsel, who have a similar matter before us and are waiting for their turn. And, they supported the contention of the appellant's counsel.

Arguments

6. As outlined earlier the appellant argued that the extent of authority vested in this tribunal under Sec.220(7) of the Code is unbridled and is comparable to the jurisdiction which a first appellate court has under Sec.96 CPC – unlimited at the point of scrutiny and unrestricted at the point of interference. The line of interpretation adopted is:

a) Sec.220(7), on its face, does not have a limiting factor in defining the extent of jurisdiction of the tribunal. Indeed, the report of the BLRC, published on 15th November, 2015 (before the IBC was launched), states: "*The Committee recognises that actions taken by regulators can impose significant penalties and burden on regulated entities. Therefore, the rule of law requires that a clear judicial process be available to persons who seek to challenge regulatory actions.*" The report of the Select Committee on IBC (Amendment) Bill, 2025, in paragraph 62.5.1(i) records the written replies received by it from the Ministry which reads: "*The proposed amendments to section 220 address the concern about proportional and fair penalties*" and that "*.. the amendments aim to ensure fairness, transparency, and appropriate safeguards against excessive punishment for minor lapses*." The report of the Select Committee thereafter proceeds to record its recommendations, and in paragraph 62.6.2 it concludes: "*Upon examination and after considering the view of the Ministry and* *stakeholders, the Committee observe that the amendments proposed in clause 62 are necessary to ensure fairness and proportionality in disciplinary actions and to enhance the overall regulatory effectiveness. Therefore, the Committee accept the Clause 62 as proposed without any modification.*" Set in the context, Sec.220(7) can only be termed as the legislative expression of the views of the BLRC and the Select Committee of the Parliament. This cannot be overlooked.

b) Under the Scheme of IBC, a resolution professional is appointed by the Adjudicating Authority on the recommendation of the CoC. A CIRP is CoC centric, and only the CoC oversees the quality of performance of a resolution professional closely, and if it is dissatisfied with the functioning of a resolution professional then it has all the authority vested in it under Sec.27 of the Code to replace him. The IBBI, therefore, cannot supersede the statutory authority of the CoC in banning a resolution professional when the CoC in a particular CIRP is not unhappy with his performance. This idea is captured in Regulation 13(7) of the IBBI (Inspection and Investigation) Regulations, 2017. It reads:

> "**Regulation 13(7)***: In case where the service provider is an insolvency professional, the Board shall intimate the order to all the members of committee of creditors of the insolvency resolution process in which he is acting as an interim resolution professional or resolution professional, as the case may be, and to the Adjudicating Authority*."

The IBBI, which framed the Regulation, is conscious of the statutory scheme of the Code and hence has consciously avoided interfering with the sphere of action and activity of the CoC. This would necessarily mean that the legislative intent behind these Regulations cannot be ignored when this tribunal exercises its jurisdiction, and this is possible only if there is no limiting factor, not found in Sec.220(7), is not read into it.

c) The Code, when it intended to restrict or limit the scope and extent of the appellate jurisdiction has unhesitantly done it. Examples of the same can be found in Sec.61(1) which does not have any limiting factor, whereas in Sec.61(3), which concerns a challenge to a resolution plan, the Code has limited the scope of appellate jurisdiction as it limited the grounds on which a challenge under Sec.61(3) could be made. So also Sec.62 which deals with the second appeal that may be preferred to the Hon'ble Supreme Court. Therefore, if only the legislature has intended not to vest absolute power to the appellate tribunal under Sec.220(7), it would have limited it. The bottomline is, where Sec.220(7) does not have a limiting clause on the extent of authority this tribunal has, it should not be read into it.

7. Per contra, the learned counsel for the IBBI contended, that the role of the IBBI is that of a regulator and has its defined role as an expert body in regulating the course of working of the Code and that may not be easily interfered with. He explained:

a) A disciplinary action is not initiated without application of mind. Sec.218 of the Code provides that when a complaint is received against a service provider (prior to 2026 amendment, it was 'insolvency professional agency or information utility') alleging contravention of any of the provisions of the Code, or the rules, or regulations or directions made thereunder, then IBBI can hold an inspection or investigation. And, only after ascertaining the existence of prima facie case of contravention of the Code or Regulations etc., it issues a show cause notice as provided for in Sec.219 of the Code and invites a reply to it. Then commences the job of the Disciplinary Committee. In terms of Sec.220(2), its powers are absolute:

> *"Where the disciplinary committee, after giving the service provider an opportunity of being heard, is satisfied that sufficient cause exists, it may impose a penalty as provided in sub-section (3) or <u>suspend or cancel the registration of the service provider,</u> or direct disgorgement under sub-section (4)"*

Inasmuch as IBBI is an expert body, its perception and understanding of the breach of the Code or the Regulation etc., and the ramification it may have needs to be respected. Therefore, notwithstanding the fact that Sec.220(7) may not have an apparent factor limiting the jurisdiction of this tribunal, in understanding its true import and reach, the contextual setting in which it is required to operate cannot be ignored.

b) The Hon'ble Supreme Court has always respected the role of a regulator as an expert, and why it functions as an expert should be kept beyond the judicial scrutiny. Reliance was placed on the ratio in ***Vishal Tiwari Vs UoI and others*** [(2024) 4 SCC 115]. Indeed, in ***Apex Heights Pvt. Ltd., Vs Ram Kishore Arora & another*** [I.A.107113 /2026, in C.A.2626 of 2025, dated 10.04.2026], the Supreme Court has gone to the extent of declaring that propriety requires that a resolution professional withdrew from his responsibility when he faces the ire of the disciplinary committee till he is cleared. The IBBI sets the standard necessary for achieving the objectives of the Code, and hence this tribunal, may not sit on the lap of the Board and remote control what it is required to do while sitting to judicially review the decision of the Board in an appeal. Reliance was also placed on the ratio in ***Chairman, SEBI Vs Shriram Mutual Fund & another*** [(2006) 5 SCC 361]. Therefore, when the Disciplinary Committee concludes that a certain service provider, which includes a resolution professional deserves to be barred from functioning as one, then while exercising its appellate jurisdiction under Sec.220(7) of the Code, should be less enthusiastic in subjecting the judgement of the disciplinary committee to judicial scrutiny, lest, an expert body may not be able to play the role expected of it.

c) When the registration of a resolution professional is suspended, it operates vis-à-vis all his assignments and not selectively. It is akin to a suspension of *sanad* of an Advocate.

8. In response the learned counsel for the appellant argued that, no parallel can be drawn as between the suspension of registration of a resolution professional and suspension of *sanad* of an Advocate. What it fails to negotiate is the effect of Sections. 22, 27 and Regulation 13(7) of IBBI (Inspection & Investigation) Regulation. So far as the ratio of ***Vishal Tiwari case*** goes, there the challenge was to a certain regulation as framed by an expert body under Article 32 of the Constitution and not what flowed from its operation. In the present case, no statutory provision or rules are challenged, but what is purported to have been done pursuant thereto. So far as ***Apex Heights Case*** goes, on facts the corporate debtor had undertaken multiple projects, and the Supreme Court has desisted the resolution professional from associating himself from all the projects of the same corporate debtor till his name is cleared, and not from every assignment in which the resolution professional is appointed as such.

Discussion & Decision

9. The issue in relation to which a decision is required to be made falls within a very narrow space: inasmuch as the impugned proceeding of the IBBI has barred the appellant from associating with every assignment he is entrusted with, should the suspension of the resolution professional, which has taken effect

during the hearing on this application, should be suspended. So far as the particular CIRP in which he has been replaced, the dispute raised can be probed separately when the main appeal is taken up for hearing.

10. As we consider the submissions made at the bar on the scope of jurisdiction which we may exercise under Sec.220(7) of the Code, two aspects stood out: (a) the defined role of CoC in appointing and replacing a resolution professional vis-à-vis the authority of the IBBI under Sec.220; and (b) the extent of authority which IBBI claims to supersede the authority of CoC in replacing a resolution professional. While it requires greater and deeper examination, we may still make a prima facie statement on it.

11. Has the CoC any authority to appoint a resolution professional or replace him if his registration is not subsisting? Indeed, Sec.22(4) mandates that when the CoC recommends an individual for him to be appointed by the Adjudicating Authority as a resolution professional, the latter is required to obtain the confirmation of the IBBI. This perhaps is to ascertain if the one who is proposed to be appointed as a resolution professional is not disqualified to be so appointed. What other purpose can it serve? Indeed, a similar provision is made when an IRP is appointed as could be seen in Sec.16(2) and (3), and also under Sec.27(4) when the resolution professional is sought to be replaced. In other words, no CoC has the authority to insist in appointing the one whose nomination is not approved by the IBBI.

12. The issue, however, is not about the appointment made at the first instance under Sec.22, or replacement of the resolution professional under Sec.27, but the extent of authority of the IBBI has to suspend a resolution professional from acting as such in every assignment without the CoC of each of those assignment joining the issue on a finding of professional misconduct of a resolution professional in one. If we hold it in the affirmative then it renders Regulation 13(7) of the IBBI (Inspection and Investigation) Regulation redundant or otiose. After all, in terms of Sec.241 of the Code, every Regulation, for framing which the Board has authority under Sec.240, is required to be placed before the Parliament while in session, and becomes operational subject to the authority of the Parliament to modify them. Can therefore a Regulation, which in the instant case is Regulation 13(7), which has passed the legislative process as envisaged under Sec.241, be allowed to be diluted under the weight of authority which the IBBI claims under Sec.220(2)?

13. Existence of authority must be distinguished from its exercise. A Regulator may have been vested with the power of a giant, but is it necessary for it to act as a giant? Who will check if it is arbitrarily exercised? Statutorily, Regulation 13(7) steps in which has required the IBBI, which itself is a creation of the statute, only to inform the CoCs of other assignments where the same resolution professional who has been indicted by the Board, for them to take appropriate decision. This has at least three advantages: (a) first, it ensures rule of

proportionality when it indicates that no resolution professional be penalised more than the extent required to, and to arrest excessive reaction and response from the Board to an allegation of misconduct in a particular assignment; (b) secondly, it balances the statutory authority of CoC to replace a resolution professional with the authority of the IBBI to discipline a resolution professional; and (c) thirdly, it upholds the eternal doctrine in administrative law, or even in common law, that no right be banished without a hearing those who are likely to be affected thereby. In our considered opinion, where these aspects come under a cloud, then judicial review under Sec.220(7) cannot sidestep them.

14. So far as the reach of the proceedings of the IBBI now impugned before us goes, it attempts to bar the appellant from acting as a resolution professional in every case in which he is appointed, but was he heard on his conduct in every assignment? The impugned proceeding only records the charge of a particular CIRP where the appellant was said to have failed in constituting a CoC for about two years when the corporate debtor has a secured financial creditor in SBI, but then it is a specific allegation in a particular CIRP, with no reference to other CIRPs where the appellant is functioning as a resolution professional. When one who is entitled to be heard but penalised without a hearing, our conscience instantly gets disturbed. It is not therefore, about the existence of authority or its extent which IBBI claims under Sec.220(2) of the Code but how it purports to

exercise it. Does not the act of the IBBI contravene Sec.218 and 291 of the Code? There is a world of difference between a rule and the way a rule-book is handled.

15. We, therefore, have little hesitation in holding that the Board has over stepped. So far as the extent of authority we have – whether the tribunal has the power of a civil court to examine and re-appreciate the facts as the Authority of the first instance *a la* the power of the civil court under Sec.96 CPC, though a prima facie view suggests a possibility, a final opinion can be made only when the main appeal is taken up for consideration. Or may be in a situation, where the proceeding suspending the registration of the resolution professional in the particular CIRP in which he is so penalised comes up for consideration.

16. We may record now that a third party has filed I.A.4610 of 2026 to intervene in the matter to oppose why it may not be desirable to let the appellant continue as a resolution professional in other assignments as well, and also placed materials before us to justify the same. We take note of them, but underscore that we may not be able to act on them, as we are certain that the rule of *audi alteram partem* is sacrosanct in our jurisprudence, and no matter how high the nature of authority vested in an Authority, the doctrine emphasising the right of hearing should not be violated. The appellant therefore, cannot be banished without a hearing on the materials so placed. The proposed intervener however, is free to move the IBBI under Sec.218(1) of the Code, if he is so desirous.

17. To conclude, we find that the appellant has made a strong prima facie case, that balance of convenience is in his favour and that irreparable injury will be caused if appellant is barred from ass**ociating with other assignments other than the one in which the Adjudicating Authority has removed him and recommended a disciplinary action against him.** We accordingly suspend the Order of suspension imposed on the appellant with regard to other assignments in which the appellant is appointed as a resolution professional. The IBBI however, may communicate the impugned order to the other CoC of such other assignments, and once done, it is for the respective CoC to take a call on its preference for the appellant as a resolution professional. No costs.

[Justice N. Seshasayee]
Member (Judicial)

[Barun Mitra]
Member (Technical)

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