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NCLAT Rules on Liquidator Replacement in Voluntary Liquidation: No NCLT Approval Required

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PUBLISHED 26 June 2025

Introduction

In a significant decision upholding the autonomy of corporate persons in voluntary liquidation, the National Company Law Appellate Tribunal (NCLAT), Principal Bench, New Delhi, in Vinod Singh v. Chandra Prakash Jain & Ors.1, held that the National Company Law Tribunal (NCLT) has no jurisdiction to restrain the replacement of a liquidator appointed under the voluntary liquidation process governed by Section 59 of the Insolvency and Bankruptcy Code, 2016 ("IBC").

This ruling clarifies the regulatory distinction between liquidation under voluntary proceedings and compulsory liquidation following corporate insolvency resolution processes (CIRP), and limits the extent of judicial intervention by adjudicating authorities in matters where statutory procedures have been duly followed.

Background of the Case

The dispute arose during the voluntary liquidation of Transmissions International India Private Limited (TIIPL), a solvent company undergoing liquidation under Section 59 of the Insolvency and Bankruptcy Code, 2016.

Initially, the shareholders appointed Mr. Umesh Ved as the liquidator, who was later replaced by Mr. Chandra Prakash Jain, following a shareholder resolution. Subsequently, citing concerns regarding Mr. Jain's conduct, such as alleged breaches of statutory duties and lack of transparency, the Board of Directors passed a resolution on 28 February 2025 to remove him. This decision was ratified by the shareholders in an Extraordinary General Meeting (EGM) held on 17 March 2025, and Mr. Arun Gupta was appointed as the new liquidator.

Mr. Jain challenged his removal by filing an interlocutory application (IA) before the National Company Law Tribunal (NCLT), Ahmedabad. On 28 March 2025, the NCLT directed the parties to maintain the status quo with respect to the liquidator, effectively restraining the replacement. The matter, originally reserved for judgment, was later de-reserved on 29 April 2025, thereby continuing the status quo and leading to the present appeal before the National Company Law Appellate Tribunal (NCLAT).

Key Legal Issue

The central legal question before the Appellate Tribunal was whether the Adjudicating Authority (NCLT) has the jurisdiction to interfere with or restrain the replacement of a liquidator during a voluntary liquidation process, when such replacement is carried out in accordance with Section 59 of the Insolvency and Bankruptcy Code, 2016 and Regulation 5 of the IBBI (Voluntary Liquidation Process) Regulations, 2017.

NCLAT's Reasoning and Observations

1. Voluntary Liquidation Is a Distinct Regime

The NCLAT observed that voluntary liquidation under Section 59 of the IBC constitutes a self-contained regime, distinct from liquidation under Sections 33 and 34, which apply following a corporate insolvency resolution process (CIRP). In voluntary liquidation, the processes for appointing or replacing a liquidator are governed by shareholder decisions, without requiring intervention from the adjudicating authority.

2. Regulation 5 Permits Replacement Without NCLT Approval

The Tribunal emphasized that Regulation 5 of the IBBI (Voluntary Liquidation Process) Regulations, 2017 allows a corporate person to appoint or replace a liquidator through a resolution, without the need for NCLT's approval. Referring to the IBBI's FAQs, it clarified that a liquidator may be replaced using the same procedure followed for the initial appointment.

3. NCLT Acted Beyond Its Jurisdiction

The NCLAT held that the NCLT's direction to maintain the status quo was beyond its jurisdiction and inconsistent with the statutory framework. Since the replacement of Mr. Jain as liquidator was validly carried out by the board and shareholders, the Tribunal found no basis for judicial interference in the matter.

4. De-reservation of Judgment Was Procedurally Improper

The Appellate Tribunal also took exception to the NCLT's subsequent decision to de-reserve its reserved judgment, citing procedural irregularities in the filings by certain respondents. It noted that these procedural issues were already known at the time the matter was reserved, and reopening it on the same grounds was arbitrary. The Tribunal referred to the Supreme Court's decision in Arjun Singh v. Mohindra Kumar [(1964) 5 SCR 946] to emphasize that once a judgment is reserved, the process should move seamlessly to pronouncement unless compelling reasons justify otherwise.

Outcome and Directions

- The NCLAT set aside the status quo order dated 28 March 2025, thereby allowing the newly appointed liquidator, Mr. Arun Gupta, to proceed with the voluntary liquidation process.
- It directed the former liquidator, Mr. Chandra Prakash Jain, to hand over all relevant documents and cooperate with the new liquidator, in compliance with Regulation 41(4) of the IBBI (Voluntary Liquidation Process) Regulations.
- The Tribunal disposed of the appeal against the de-reservation order with a specific direction to the NCLT to first determine the maintainability of Mr. Jain's challenge to his removal at the next scheduled hearing.

Practical Takeaways

1. Corporate Autonomy in Voluntary Liquidation

Directors and shareholders have full authority to appoint or replace a liquidator during voluntary liquidation. Judicial intervention is not warranted unless there is evidence of fraud, misconduct, or illegality.

2. Limited Scope of Judicial Review

The NCLAT reaffirmed that adjudicating authorities cannot interfere with decisions made in accordance with Section 59 of the IBC and the Voluntary Liquidation Regulations. Once a liquidator has been validly replaced, maintaining the status quo is beyond the NCLT's jurisdiction.

3. Need for Timely Completion of Voluntary Liquidation

The Tribunal stressed the importance of completing voluntary liquidation in a time-bound manner. Procedural delays and judicial overreach can undermine the efficiency and finality that the IBC framework is designed to ensure.

Conclusion

The NCLAT's ruling reaffirms the limited role of judicial intervention in commercial decisions made under the self-contained voluntary liquidation framework. For stakeholders, including shareholders, directors, and insolvency professionals, this decision offers much-needed clarity: as long as the process adheres to the provisions of the IBC and the Voluntary Liquidation Regulations, it may proceed without court-imposed impediments. The judgment reaffirms the principle that voluntary liquidation is a shareholder-driven process, and regulatory interference must be minimal unless justified by statutory violations.

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