

Learning Curve-1007

November 09, 2023

IBBI is the authority to regulate the functioning of the IPs and comprises of experts in the field; the courts do not sit as an Appellate Authority over the decisions taken by the experts.

CASE TITLE	Abba Consultants Private Limited V/s IBBI & Ors.
CASE CITATION	W.P.(C) 8856/2020 & CM APPL. 28479/2020
DATE OF ORDER	November 03, 2023
COURT/ TRIBUNAL	High Court of Delhi, New Delhi

BRIEF FACTS:

The Petitioner filed a complaint with the IBBI against the RP highlighting the irregularities committed during CIRP of CD. The complaint was disposed of; however, no action has been taken by the respondent against the RP. The petitioner then approached the High Court seeking a writ of mandamus directing the respondent to take action against the RP for misconduct in his performance.

DECISION:

The Hon'ble High Court of Delhi, held that,

“No material has been furnished by the Petitioner to substantiate that the Board has acted in a manner to favour Respondent No.2 or to shield the mis-deeds of Respondent No.2, who is Insolvency Resolution Professional. In fact, the final report records certain irregularities committed by Respondent No.2 which, this Court is sure, will be taken care of by the Board before appointing Respondent No.2 in further cases as Insolvency Resolution Professional.

Under Article 226 of the Constitution of India, this Court cannot substitute its own conclusion to the one arrived at by experts until and unless there is gross miscarriage of justice which strikes at the root of the case. A team of experts have considered the case and have arrived at a conclusion and this Court cannot hazard a venture into this domain. It is well settled that the courts should give way to the opinion of the experts unless the decision is totally arbitrary or unreasonable...

Respondent No.1/Board is the authority to regulate the functioning of the Insolvency Professionals and the Board comprises of experts in the field who have been appointed by the Central Government to carry out the functions specified under Part IV of the IBC. It is well settled that Courts do not sit as an Appellate Authority over the decisions taken by the experts.”