

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No.1300 of 2023**

**IN THE MATTER OF:**

**Commercial Tax Officer Audit -5, Mangalore**

**...Appellant**

**Versus**

**Bharati Defence and Infrastructure Ltd. & Anr.**

**...Respondents**

**Present:**

**For Appellant: Mr. Sandeep Huilgal, Advocate.**

**For Respondents: Mr. Anupam Prakash and Ms. Vasu Manchanda,  
Advocates for R-2.**

**O R D E R  
(Hybrid Mode)**

**16.01.2024:** Heard learned counsel for the Appellant. This Appeal has been filed against the order passed by the Adjudicating Authority dated 02.08.2023 passed on IA No.1367 of 2023 filed by the Appellant to admit the claim and to set aside the order dated 16.02.2023 rejecting the application of the Appellant and praying to condone 1424 days delay. The Adjudicating Authority by the impugned order condoned the delay and admitted the claim but said order was passed subject to payment of cost to the tune of Rs.25,000/-. The Appellant aggrieved by the said order has come up in this Appeal.

2. Learned counsel for the Appellant submits that the Adjudicating Authority ought not to have imposed cost of Rs.25,000/-, Appellant being Government Department and officer who filed the claim was not present at the

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relevant time and delay was not caused at the instance of the officer who has filed the claim.

3. We have considered the submissions of learned counsel for the Appellant and perused the record.

4. In Para 7 of the impugned order the Adjudicating Authority has directed:

*“7) Having considered the submission of the Parties and on perusal of averments made in the present Interlocutory Applications, this Bench condone the delay in submission of claim by the Applicant before the Respondent No. 2, subject to the payment as cost to the tune of Rs. 25,000/- to be paid in Bharatkosh, in view of the inordinate delay of 1424 days. The impugned Order dt. 16.02.2023, passed by the Respondent No. 2, is set aside and the Respondent No. 2 is hereby directed to examine the claim of the Applicant herein on merits and shall pass reasoned Order.”*

5. Admittedly, there was inordinate delay in filing the claim and the Adjudicating Authority condoned the delay subject to payment of Rs.25,000/- to be paid in Bharatkosh. The condonation of delay and acceptance of claim and payment of cost are interrelated. Appellant cannot claim that payment of cost be deleted and still their claim be accepted. We are of the view that imposition of cost cannot be deleted as prayed in this Appeal.

6. Learned counsel for the Appellant now seeks four weeks' time to make payment of cost. He is permitted to make payment of cost of Rs.25000/- within four weeks from today.

7. Appeal is dismissed as above.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Barun Mitra]**  
**Member (Technical)**

**[Arun Baroka]**  
**Member (Technical)**

*Archana/nn*