

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

I.A. No. 6903 of 2024

in

Company Appeal (AT) (Insolvency) No. 1913 of 2024

In the matter of:

Anup Kumar

Liquidator of Independent TV

...Appellant

Versus

**Ministry of Information and Broadcasting
& Ors.**

...Respondents

Present :

For Appellant : Mr. Abhishek Anand, Ms. Shankari Mishra, Ms. Jyoti Khurana, Advocates.

For Respondent : Ms. Shiva Lakshmi, CGSC with Mr. Govind Sharma, Advocates for R-1.

O R D E R
(Hybrid Mode)

Per: Barun Mitra, Member (Technical)

The present application I.A. No.6903 of 2024 is an application praying for condonation of 166 days delay in refiling of Company Appeal (AT) (Insolvency) No. 1913 of 2024.

2. When the Appeal came up for hearing on 04.11.2024, the Ld. Counsel for the Appellant sought liberty to file an additional-affidavit in support of application praying for condonation of refiling delay.

3. In pursuance of liberty granted by this Tribunal, the Applicant has filed an Additional-Affidavit giving explanation for delay at paragraphs 4 to 7 which are as reproduced below:

“4. Unfortunately, on 16.04.2024, the counsel for the Deponent faced a bereavement in the family as the Appellant's Counsel's grandfather, residing in Gorakhpur, Uttar Pradesh, passed away. As a result, the counsel had to travel to Gorakhpur and make multiple trips over the course of a month for the completion of final rituals. During this period of personal loss and emotional distress, the Deponent's counsel was unable to refile the Appeal.

5. Subsequently, in June 2024, due to the summer vacation and limited staffing in the office, the counsel for the Appellant was unable to facilitate the refiling of the Appeal during this time. Subsequently, on June 27, 2024, when office of the Deponent's counsel resumed operations, the Appeal was refiled after rectifying the identified defects. A copy of the Refiling Receipt dated 27.06.2024 is marked and annexed herewith as Annexure A2.

6. Thereafter, between July and September, the Appellant made multiple attempts- on four occasions- to refile the captioned Appeal to have it listed before this Hon'ble Tribunal.

The defect email received by the Deponent's counsel is marked and annexed herewith as Annexure A3 (Colly).

7. Thereafter finally on refiling of the captioned Appeal on 4.10.2024, the Captioned Appeal filed by the Deponent was cleared and was listed before this Hon'ble Court on 4.11.2024. The copy defect email received by the Deponent's counsel on 4.10.2024 is marked and annexed herewith as Annexure A4.”

4. The Applicant in the additional affidavit has submitted that the demise of the counsel's grandfather in Gorakhpur on 16.04.2024 had prevented the counsel from filing the appeal on time as he had to undertake multiple travels to Gorakhpur to complete attendant rituals. The Learned Counsel for the Applicant, Shri Abhisekh Anand further submitted that the intervening vacation in June and shortage of staff was another reason leading to delay in refiling. It was further submitted that the appeal petition underwent continuous revisions as the Registry pointed out defects four times which added to the delay. Hence, the cumulative delay of 166 days was caused by

genuine reasons. At no stage did the Applicant cause the delay deliberately or for any other extraneous consideration.

5. The above submissions of the Applicant were vehemently contested by Ms Shiva Lakshmi, Learned Counsel for the Respondent stating that the delay of 166 days in refiling being was inordinately long and the grounds of condonation of refiling delay as placed on affidavit lacks cogent basis. The refiling delay was entirely on account of the casual approach of the Applicant coupled with negligence and lack of thoroughness in properly curing the defects. In the absence of sufficient and valid grounds, the refiling delay condonation application of the applicant deserves to be rejected.

6. We have heard the rival contentions of both the parties and perused the records.

7. It goes without saying that it is normative that re-filing delay condonation application warrants a liberal and lenient treatment and is a matter which largely lies between the Court and the Applicant. Be that as it may, when delay in refiling is unduly protracted, for condonation of the same, the Bench must be satisfied with the genuineness and plausibility of the explanation offered. It would therefore be in the fitness of things for this Bench to analyse if the reasons proffered in the present case establish that the delay was caused by reasons which were beyond the control of the Applicant.

8. Coming to the first explanation offered which was bereavement in the family of the counsel and the need to perform attendant rituals, we are inclined to agree to the time lapse of a month as has been claimed by the

Applicant to justify the delay. This period of one month admittedly came to an end in mid-May, which time this Tribunal was fully operational. However, there seems to have been total inertia and non-action on the part of the Applicant to take any steps towards removing the defects. Delay thereafter from June onwards has been conveniently attributed to the summer vacations of the court. This is a lame and hackneyed excuse which clearly has no legs to stand on since the Registry is always open and working even during vacation time. We are therefore not impressed with vacations being made the scapegoat to cover up the Applicant's lethargy in curing the defects. Another ground cited by the Applicant is that a lot of time got consumed as they had to repeatedly make corrections because of defects being pointed out by the Registry on four different occasions. We are not convinced by this argument either as it only substantiates the contention of the Respondent that the Applicant was lackadaisical and negligent while making the corrections and removing the defects in a timely manner. Had the Applicant been more alert, careful and vigilant, they would not have been required to undergo the rigmarole of correcting defects four times. From the above analysis, we are of the considered view that the delay was clearly not occasioned by factors which were beyond the control of the applicant but preponderantly actuated by their inaction or non-action. In sum, the reasons for delay as stated are perfunctory and therefore do not meet our countenance.

9. This Bench is of the view that sufficient grounds have not been made out for condonation of 166 days in refileing of the Company Appeal (AT)

(Insolvency) No. 1913 of 2024. The refiling delay condonation application is rejected. With the dismissal of the application for condonation of delay in refiling, the Memo of Appeal is also rejected.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Place: New Delhi

Date: 03.01.2025

Harleen/Abdul