

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No.23/2024

(IA No.83/2024)

(Arising out of the Impugned Order dated 24.11.2022 passed by the
‘Adjudicating Authority’ National Company Law Tribunal, Amaravathi
Bench in CP (IB) No.45/7/AMR/2020)

In the matter of:

Munagala Roja Harsha Vardhini
14-10-63, Shivalayam Street,
Morrispet, Tenali,
Guntur, Andhra Pradesh – 522 201

... Appellant

V

Vardhansmart Private Limited
Plot No G3, Sai Apartment, Ground Floor,
Agnikulakshetraya Street,
Ganganammampet, Tenali
Guntur, Andhra Pradesh – 522 201

...Respondent

Present :

| | |
|----------------|---|
| For Appellant | : Mr. TK Bhaskar, Advocate |
| | For Mr.Mayan H Jain |
| | Mr. Pranav Gopalakrishnan & |
| | Mr. Niveditha Narayanan, Advocates |
| For Respondent | : Mr. Chandra Mouli Prabhakar, Advocate |
| | Mr. Vandhana Prabhu, Advocate |

ORDER
(Hybrid Mode)

15.03.2024:

Heard the Learned Counsel for the ‘Petitioner/Appellant’ in IA No.83/2024 in Comp. App. (AT)(CH)(Ins) No.23 of 2024 (Condone Delay Application).

1. According to the ‘Petitioner/Appellant’ there has occasioned a delay of 12 days (according to the ‘Office of the Registry’ 26 days) in preferring the ‘Appeal’ in respect of the ‘Impugned Order’ dated 24.11.2022 passed by the ‘Adjudicating Authority/Tribunal’ in CP (IB) No.45/7/AMR/2020.

2. The Learned Counsel for the ‘Petitioner/Appellant’ points out that as per Rule 50(2) of the National Company Law Rules, 2016, the ‘Registry’ of the ‘Adjudicating Authority/Tribunal’ shall send a Free of Cost Certified Copy of the Final Order to the parties to the ‘lis’. Also, that the ‘Certified copy’ could be obtained by the ‘parties’ against the payment of cost as per ‘Schedule of Fees’.

3. In this connection, the Learned Counsel for the ‘Petitioner/Appellant’ adverts to Rule 150 of the National Company Law Tribunal Rules, 2016 which stipulates the manner in which the ‘orders’ must be pronounced by the ‘Adjudicating Authority/Tribunal’.

4. According to the Learned Counsel for the ‘Petitioner/Appellant’ that in terms of Rule 150(2) of the National Company Law Tribunal Rules, 2016 “Every order of the Tribunal shall be in writing and shall be signed and dated by the President or Member or Members constituting the Bench which heard the case and pronounced the order.”

5. Furthermore, in terms of Rule 150 (3) of the National Company Law Tribunal Rules, 2016, ‘A certified copy of every ‘order’ passed by the ‘Tribunal’ shall be given to the parties. As such, it is contended on behalf of the ‘Petitioner/Appellant’, that the Provision of a ‘certified copy of every order’,

passed by the National Company Law Tribunal, is contemplated as per NCLT Rules, 2016, being part of the ‘pronouncement of order’.

6. The Learned Counsel for the ‘Petitioner/Appellant’ points out that the in the instant case, the main CP(IB) No.45/7AMR/2020, the ‘Impugned Order’ was pronounced in ‘open court’ by the ‘Adjudicating Authority/Tribunal’ on 24.11.2022. However, the ‘certified copy’ of the ‘order’ was only prepared and despatched to the parties on 02.12.2022. As a matter of fact, the ‘free cost’ ‘certified copy of the Order’ was received at the ‘Office of the Counsel for the Petitioner/Appellant’ on 07.12.2022. As such, Section 12(2) of the Limitation Act, 1963, makes it quite clear that “in computing the period of limitation for an ‘appeal’ or an application for ‘leave to Appeal’ or for revision or for review of a Judgment, the day on which the ‘judgment’ complained was pronounced and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be revised or reviewed shall be excluded”.

7. The clear-cut stand of the ‘Petitioner/Appellant’, is that the period of limitation and for filing instant ‘Appeal’, shall be computed from 07.12.2022 and the 30 days’ time period for filing instant ‘Appeal’ expires on 06.01.2023.

8. Added further, this ‘Tribunal’, is vested with the discretion to condone the delay upto 15 days in filing an ‘Appeal’, and the ‘discretionary’, 15 days period in the instant case will come to an end on 21.01.2023. Therefore, the instant ‘Appeal’ being filed before the ‘Office of the Registry’ through e-portal on 19.01.2023 is filed with a delay of 12 days, which is within the condonable period of this ‘Appellate Tribunal’.

9. The Learned Counsel for the ‘Petitioner/Appellant’, projects an argument that the ‘Petitioner/Appellant’, was ‘unwell and had taken ill, on account of ‘Enteric Fever’ and ‘Hepatitis Urinary Tract Infection’ due to which, she was ‘indisposed’, between 18.11.2022 and 06.01.2023, during, which time, she was unable to examine the papers and ‘Memorandum of Appeal’ and approve the same,

upon seeking appropriate legal advice. Besides these, ‘Certificate’ issued by the registered ‘Medical Practitioner’, certifying the Petitioner’s ‘illness’ and ‘indisposition’, is produced, before this ‘Tribunal’, ‘during the course of argument’.

10.The Learned Counsel for the ‘Petitioner/Appellant’ points out that she is the ‘Resident of Tenali’, Guntur, Andhra Pradesh, and therefore, not in the immediate vicinity of either the ‘Adjudicating Authority/Tribunal’, Amaravati Bench or this ‘Appellate Tribunal’ and hence she requires ‘time’, to “compile and collect” the ‘case papers’, and bring them to her legal counsel in Chennai, so as to prepare the instant ‘Appeal’, and file the same. Therefore, the ‘delay in filing the present Appeal’, is neither wilful nor wanton and that the ‘Condone Delay Application’ in IA No.83/2024 in Comp. App. (AT)(CH)(Ins) No.23/2024 is filed in ‘bona fide manner’ without concealing anything, before this ‘Appellate Tribunal’.

11.At this juncture, the Learned Counsel for the ‘Petitioner/Appellant’ refers to Rule 2(9)(a) of the National Company Law Tribunal Rules, 2016 whereby, it is mentioned that ‘Certified as provided in Section 76 of the Indian Evidence Act, 1872 or

(b)certified as provided in Section 6 of the Information Technology Act, 2000; or

(c)certified copy issued by the Registrar of Companies under the Act;”

12.Furthermore, the Learned Counsel for the ‘Petitioner/Appellant’ falls back upon the definition as per Section 2(10) of NCLT Rules, 2016 under the caption “Certified by Tribunal” means in relation to a copy of a document certified to be a true copy issued by the ‘Registry’ or of a ‘Bench/Tribunal’ under its hand and seal and as provided in Section 76 of the Indian Evidence Act, 1872 [1 of 1872].

13.The Learned Counsel for the ‘Petitioner/Appellant’, refers to the definition in Section 2(j) of the National Company Law Appellate Tribunal Rules

which provides that “All other words and expressions used in these rules but not defined herein and defined in the Act and the National Company Law Appellate Tribunal Rules, 2016 shall fall meanings respectively opined to in the Act and in the said Rules, except in the teeth of Rule 22(2) of the National Company Law Appellate Tribunal Rules, 2016 which clearly mentions that every ‘Appeal’ shall be accompanied by a ‘Certified Copy of the Impugned Order’.

14.The Learned Counsel for the ‘Petitioner/Appellant’, refers to Rule 50 of the National Company Law Tribunal Rules under the caption “Registry to send certified copy’ which provides that ‘The Registry shall send a certified copy of final order passed to the parties concerned free of cost and the certified copies may be made available with cost as per schedule of fees, in all other cases.’.”.

15.In pith and substance, the Learned Counsel for the ‘Petitioner/Appellant’, contends that a conjoint reading of the aforesaid provisions of the ‘National Company Law Tribunal Rules, 2016’ and the ‘National Company Law Appellate Tribunal Rules, 2016’, clearly points out that the ‘Petitioner/Appellant’ is entitled to file a ‘Free Cost Copy’ of the ‘Impugned Order’ passed by the ‘Adjudicating Authority/Tribunal’, and based on that, to prefer an ‘Appeal’ before this ‘Tribunal’, the ‘free copy’ of the ‘Impugned Order’, which is also certified by the ‘Officer of the Tribunal’, would suffice, for the ‘Petitioner/Appellant’, to prefer an ‘Appeal’, as per Rule 22 of the National Company Law Appellate Tribunal Rules, 2016.

16.Contending contra, the Learned Counsel for the ‘Petitioner/Appellant’, points out that the matters were listed for ‘orders’ as item No.1 on 24.11.2022 before the ‘Adjudicating Authority/Tribunal’ and that the ‘Adjudicating Authority/Tribunal’ was pleased to dismiss both the main IA(IBC)/102/2022 in C.P.(IB) No.45/7AMR/2020 on merits through the ‘Impugned Order’ and in short, the ‘Petitioner/Appellant’ and her Learned Counsel’s were duly aware about the ‘Pronouncement of Orders’ on 24.11.2022.

17.The Learned Counsel for the ‘Respondent’ comes out with a plea that the ‘Petitioner/Appellant’, has failed to apply for a ‘Certified Copy of the ‘Impugned Order’ dated 24.11.2022 passed by the ‘Adjudicating Authority/Tribunal’ and hence, the ‘Petitioner/Appellant’ is not entitled to derive the benefits of Section 12(2) of the Limitation Act, as held by the Hon’ble Supreme Court of India.

18.The Learned Counsel for the ‘Respondent’ refers to the decision of the Hon’ble Supreme Court in V. Nagarajan v SKS ISPAT and Power Limited and others reported in (2022) 2 Supreme Court Cases 244, wherein, at paragraph 31 & 32, it was held that:

31“The import of Section 12 of the Limitation Act and its Explanation is to assign the responsibility of applying for a certified copy of the order on a party. A person wishing to file an appeal is expected to file an application for a certified copy before the expiry of the limitation period, upon which the “time requisite” for obtaining a copy is to be excluded. However, the time taken by the court to prepare the decree or order before an application for a copy is made cannot be excluded. If no application for a certified copy has been made, no exclusion can ensue. In fact, the Explanation to the provision is a clear indicator of the legal position that the time which is taken by the court to prepare the decree or order cannot be excluded before the application to obtain a copy is made. It cannot be said that the right to receive a free copy under Section 420(3) of the Companies Act obviated the obligation on the appellant to seek a certified copy through an application. The appellant has urged that Rule 14 “14. Power to exempt.—The Appellate Tribunal may on sufficient cause being shown, exempt the parties from compliance with any requirement of these rules and may give such directions in matters of practice and procedure, as it may consider just and expedient on the application moved in this behalf to render substantial justice.” of the NCLAT Rules empowers NCLAT to exempt parties from compliance with the requirement of any of the rules in the interests of substantial justice, which has been typically exercised in favour of allowing a downloaded copy in lieu of a certified copy. While it may well be true that waivers on filing an appeal with a certified copy are often granted for the

*purposes of judicial determination, they do not confer an automatic right on an applicant to dispense with compliance and render Rule 22(2) of the NCLAT Rules nugatory. The act of filing an application for a certified copy is not just a technical requirement for computation of limitation but also an indication of the diligence of the aggrieved party in pursuing the litigation in a timely fashion. In a similar factual scenario, NCLAT had dismissed an appeal “**Prowess International (P) Ltd. v. Action Ispat & Power (P) Ltd., 2018 SCC OnLine NCLAT 644 Cognizance for Extension of Limitation, In re, (2020) 19 SCC 10 : (2021) 3 SCC (Cri) 801 (“suo motu order”)**” as time-barred under Section 61(2) IBC since the appellant therein was present in court, and yet chose to file for a certified copy after five months of the pronouncement of the order.*

*32. The appellant had argued that the order of NCLAT notes that NCLT Registry had objected to the appeal in regard to limitation, to which the appellant had filed a reply stating that the limitation period would begin from the date of the uploading of the order, which was 12-3-2020. The appellant submitted that the suo motu order of this Court dated 23-3-2020, “**Cognizance for Extension of Limitation, In re, (2020) 19 SCC 10 : (2021) 3 SCC (Cri) 801 (“suo motu order”)**” taking retrospective effect from 15-3-2020, made under Article 142 of the Constitution, extended the limitation until further orders, which renders the appeal filed on 8-6-2020 within limitation. However, it is important to note that this Court had only extended the period of limitation applicable in the proceedings, only in cases where such period had not ended before 15-3-2020. In this case, owing to the specific language of Sections 61(1) and 61(2), it is evident that limitation commenced once the order was pronounced and the time taken by the court to provide the appellant with a certified copy would have been excluded, as clarified in Section 12(2) of the Limitation Act, if the appellant had applied for a certified copy within the prescribed period of limitation under Section 61(2) IBC. The construction of the law does not import the absurdity the appellant alleges of an impossible act of filing an appeal against an order which was uploaded on 12-3-2020. However, the mandate of the law is to impose an obligation on the appellant to apply for a certified copy once the order was pronounced by NCLT on 31-12-2019 **Cethar Ltd. (Resolution Professional) v. SKS Ispat & Power Ltd. MA No. 906/IB/2019 in CA No.38/IB/2018, order dated 31-12-2019 (NCLT)**, by virtue of Section 61(2)*

*IBC read with Rule 22(2) of the NCLAT Rules. In the event the appellant was correct in his assertion that a correct copy of the order was not available until 20-3-2020, the appellant would not have received a certified copy in spite of the application till such date and accordingly received the benefit of the suo motu order **Cognizance for Extension of Limitation, In re. (2020) 19 SCC 10 : (2021) 3 SCC (Cri) 801** (“suo motu order”) of this court which came into effect on 15-3-2020. However, in the absence of an application for a certified copy, the appeal was barred by limitation much prior to the suo motu direction of this Court, even after factoring in a permissible fifteen days of condonation under Section 61(2). The Court is not empowered to condone delays beyond statutory prescriptions in special statutes containing a provision for limitation **Union of India v. Popular Construction Co., (2001) 8 SCC 470; Singh Enterprises v. CCE, (2008) 3 SCC 70; Chhattisgarh SEB v. CERC, (2010) 5 SCC 23; Bengal Chemists & Druggists Assn. v. Kalyan Chowdhury, (2018) 3 SCC 41 : (2018) 2 SCC (Civ) 30**”*

19. According to the ‘Respondent’, and admittedly too, the ‘Petitioner/Appellant’, had not applied for a ‘Certified Copy’ of the ‘Impugned Order’, dated 24.11.2022 and only, is placing reliance upon the ‘Free of Cost’ ‘Certified Copy’, and therefore, is incorrect, in computing the ‘period of limitation’, from the date on which the ‘Free of Cost Copy’ was received.

20. The Learned Counsel for the ‘Respondent’, takes an emphatic plea that the delay as mentioned in the ‘condone delay application’ in IA/83/2024 in Comp. App. (AT) (CH) (Ins) No.23 of 2024 by the ‘Petitioner’ as 12 days is not a correct one and in reality, there has occasioned a ‘Delay of 26 days’, i.e. ‘beyond the period of 30 days’, prescribed under Section 61 of the Insolvency and Bankruptcy Code, 2016. Therefore, this ‘Tribunal’ as per Section 61(2) of the IBC, 2016 is not empowered to condone the delay, after the expiry of 30 days, from the date of ‘Pronouncement of the order’ and only a ‘15 days’ is given to the ‘Appellate Tribunal’ to condone the delay [after the expiry of 30 days from the date of ‘Pronouncement of the Order’ by the Adjudicating Authority] but

not exceeding $30 + 15 = 45$ days, being the outer limit, under the Code. In the instant case, the delay of $30 + 26$ days comes to 56 days, which this 'Appellate Tribunal' is not empowered under the Insolvency and Bankruptcy Code, 2016, to condone the same.

21. The other contention on behalf of the 'Respondent', is that the 'Petitioner/Appellant' has produced a 'Medical Certificate' from a 'Registered Medical Practitioner', certifying her 'illness and indisposition' dated 17.01.2023 (as mentioned in paragraph 6 and 7 of the 'Application', although genuine), the same is 'not a ground' for preferring an 'Appeal', beyond the prescribed period as per Section 61(2) of the Insolvency and Bankruptcy Code, 2016.

22. The Learned Counsel for the 'Respondent' cites the Judgment of this 'Appellate Tribunal', in Chanderpati v. Soni Realtors Private Limited Comp. App. (AT) (Ins) 691 of 2023 wherein at paragraph 59 it is observed as under:-

“Thus the ratio of all the four judgments is that (i) the period of limitation is to be reckoned from the date of pronouncement of the order in the cases covered by the code (ii) It is mandatory to annex the certified copy of the Impugned Order with the memorandum of appeal (iii) the Tribunal may exempt the parties from compliance with the procedural requirement in the interest of substantial justice as reiterated in Rule 14 (iv). There is no automatic exemption where the litigant makes no efforts to pursue a timely resolution of their grievance. (v) The Appellant having failed to apply for a certified copy, rendered the appeal filed before the NCLAT as clearly barred by limitation. (vi) It is not open to the person aggrieved under the code to await the receipt of free certified copy under Section 420(3) of the Act r/w Rule 50 and prevent limitation from running (vii) Litigant has to file the appeal within 30 days which can be extended upto a period of 15 days on showing sufficient cause which cannot be condoned thereafter (viii) Limitation ceases to run from the date of e-filing (ix) in order to take advantage of Section 12(2) of the Act 1963, certified copy has to be applied during the currency of the period prescribed for filing an appeal”

23.The stand of the Respondent, is that the instant ‘Appeal’, having preferred beyond the condonable period prescribed under Section 61(2) of the Insolvency and Bankruptcy Code, 2016 and filed before this ‘Tribunal’, on 56th day viz.; on 19.02.2023, the same, is ‘hopelessly barred by limitation’ and that the instant ‘Appeal’ cannot be entertained by this ‘Appellate Tribunal’, considering the fact that the ‘Limitation’ for preferring the ‘Appeal’ of the ‘Petitioner/Appellant’ was within 08.01.2023, in terms of Section 61(2) of the IBC, 2016.

24.Admittedly, in the instant case, the ‘Petitioner/Appellant’, had not applied for a ‘Certified Copy’ as per Section 76 of the Indian Evidence Act, 1872, contemplated under Rule 2(9) of the National Company Law Tribunal Rules, 2016, and has not obtained the ‘certified copy’, on payment of, ‘Requisite Fee’, as per ‘Rules’. Therefore, the ‘Free Cost copy’ of the ‘Impugned Order’ dated 24.11.2022 passed by the ‘Adjudicating Authority/Tribunal’ in CP (IB) No.45/7/AMR/2020, is not a ‘Copy Certified’, contemplated as per Rule 22 of the National Company Law Appellate Tribunal Rules, 2016.

25.The other fact which is to be noticed in the instant ‘Appeal’, is that on behalf of the ‘Petitioner/Appellant’, as per Section 14 of the National Company Law Appellate Tribunal Rules, 2016, ‘No Application’, seeking permission from this ‘Appellate Tribunal’ for exemption to file ‘Certified Copy’ of the ‘Impugned Order’, is filed by the ‘Petitioner/Appellant’ before this ‘Tribunal’.

26.This ‘Tribunal’ has given anxious instruction to the arguments and contentions advanced on both sides and noticed the same in a meticulous manner.

27.It is to be borne in mind that Section 76 of the Indian Evidence Act, 1872, does not prescribe any particular form of ‘Certified Copy’, as per decision in *Thatha v Paru* reported in 1986 Kerala at page 196.

28.A provision is made in Section 76 of the Indian Evidence Act, 1872 that for securing those ‘Certified Copies’ by enacting that every ‘Public Officer’ having the custody of a public document, which any person has a right to inspect

shall give that person on demand a copy of it on payment of the legal fees therefor, together with a 'Certificate Written, at the foot of such copy, that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorised by law to make use of a seal; and such copies so certified shall be called certified copies.

Explanation. – Any Officer who, by the ordinary course of official duty, is authorised to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.”

28.Greenleaf defines 'public documents', as the 'acts to public functionaries in the executive, legislative and judicial departments, of 'Government', including under this head, the transactions which official persons are required to enter into 'Books' or 'Registers' in the course, of their public dues and which occur within the circles of their own personal knowledge and observation (Greenleaf Evidence S 470).

29.In this connection, this 'Tribunal', aptly points out the decision in K Pedda Jangaiah v Mandal Revenue Officer, reported in 1996 AIHC 1006(AP) wherein it is held that the “right to seek a certified copy of public document is dependent on the right to inspect the document.”

30.At this stage, this 'Tribunal', worth recalls and recollect the illuminating decision of the Hon'ble Supreme Court of India in National Spot Exchange Limited v Anil Kohli, Resolution Professional for Dunar Foods Limited (Resolution Professional) reported in {(2022)11 SCC 761} at page 773 wherein at paragraph 14 it is observed as under:

“It is true that in a given case there may arise a situation where the applicant/appellant may not be in a position to file the appeal even within a statutory period of limitation prescribed under the Act and even within the extended maximum period of appeal which could be condoned owing to

genuineness viz. illness, accident, etc. However, under the statute, Parliament has not carved out any exception of such a situation. Therefore, in a given case, it may cause hardship, however, unless Parliament has carved out any exception by a provision of law, the period of limitation has to be given effect to. Such powers are only with Parliament and the legislature. The courts have no jurisdiction and/or authority to carve out any exception. If the courts carve out an exception, it would amount to legislate which would in turn might be inserting the provision to the statute, which is not permissible.”

From the aforesaid observations of the Hon’ble Supreme Court of India in “National Spot Exchange Ltd. v. Dunar Foods Ltd.” (Resolution Professional) reported in {(2022)11 SCC 761} at page 773 wherein at paragraph 14, it is quite clear that ‘Courts’ have no ‘jurisdiction’ and /or ‘Authority’ to carve out any ‘exception’ and further, in the aforesaid judgment, it is clearly mentioned that if the ‘courts’ have carve out an exception, it would amount to legislate which in turn might be inserting the provisions of the statute, which is clearly ‘not permissible in Law’.

32. A mere running of the ‘eye over the rule 50 of the National Company Law Tribunal Rules, 2016 clearly points out that the ‘Application’ of the ‘Petitioner/Appellant’ to comply with a certified copy by paying the ‘schedule of fees’ ‘cannot be dispensed with’ and at best, the sending of the ‘certified copy’ of ‘final order’ by the authorities concerned, ‘Free of Cost’, is an obligation caused upon the ‘Office of the Registry’ of the ‘National Company Law Tribunal’, as per National Company Law Tribunal Rules. Moreover, that the receipt of ‘free of cost copy’, the ‘Petitioner/Appellant’, by receiving the same, and after recovering from illness, cannot be a substitute for a ‘Certified Copy’ of the ‘Impugned Order’, to accompany the ‘Appeal’ as per Rule 22(2) of the National Company Law Appellate Tribunal Rules, 2016.

33.To put it precisely and succinctly, the “Rule 50 of the National Company Law Tribunal Rules, 2016”, is to be read in conjunction with definition of Rule 2(9) of the National Company Law Tribunal Rules, 2016. To put it differently, Rule 50 of the National Company Law Tribunal Rules, 2016 cannot be interpreted, disjunctively, without falling back upon the ‘words’ employed under Rule 2(9) of the National Company Law Tribunal Rules, 2016, which provides for meaning for the word ‘certified’, in relation to a ‘Copy of the Document’ as mentioned therein.

34. Moreover, obtaining of ‘Free of Cost Copy’, is only the ‘Concern of the particular party to the effect that an ‘order’ was obtained against him and as a ‘litigant’/‘stakeholder’ he/she is to pursue the ‘further course of action’, in the manner known to law and in accordance with law.

35.As far as the present case is concerned, the delay of 12 days has computed by the ‘Petitioner/Appellant’, in her ‘Application’, from the date of receipt of ‘free copy’ on 07.12.2022 cannot be accepted and as per Rule 150 of the National Company Law Tribunal Rules, 2016, the ‘Pronouncement date’ can only be the date on which the ‘order’ was pronounced on 24.11.2022 by the ‘Adjudicating Authority/Tribunal’. If calculated from the date on which the instant ‘Appeal’ came to be filed through ‘e-portal’ on 19.01.2023, the actual delay comes (after the expiry of 30 days in preferring an ‘Appeal’) will be 26 days. In all there is a delay of 26 days which is ‘beyond the condonable period of (30 + 15 = 45 days) being the outer limit’, as provided under Section 61(2) of the Insolvency and Bankruptcy Code, 2016.

36.Taking note of the fact that in the ‘Absence of any Interlocutory Application’, being filed by the ‘Petitioner/Appellant’, ‘seeking exemption to file ‘certified copy’ of ‘Impugned Order’, before this ‘Tribunal’, the interference that can be drawn from the clear-cut facts in the present case is that, the instant ‘Appeal’ Comp. App. (AT) (CH) (Ins) No.23 of 2024 (Condone Delay Application) is filed

beyond the 'statutory period' as envisaged under Section 61(2) of the Insolvency and Bankruptcy Code, 2016.

37.It is needless for this 'Tribunal' to point out that a 'Litigant', in a 'level of playing field' is to follow the 'Rules of the Game', in scrupulous and in a meticulous manner. However, harsh the Rule or 'Law' may be prevailing as on date, then a 'Duty' is enjoined upon this 'Appellate Tribunal' to comply with the same with all its vigour and vitality and this 'Tribunal' is 'not concerned with the consequences arising thereto'.

38.Looking at from any angle, the instant IA No.83 of 2024 in Comp. App. (AT) (CH) (Ins) No.23 of 2024 (Condone Delay Application) is 'devoid of merits' and it fail.

39.In fine, the IA No.83 of 2024 in Comp. App. (AT)(CH)(Ins) No. 23 of 2024 is **Dismissed**, but without costs.

Comp. App. (AT)(CH)(Ins) No. 23 of 2024

In view of the fact that this 'Tribunal' in IA No.83 of 2024 in Comp. App. (AT)(CH)(Ins) No. 23 of 2024 has dismissed the 'Condone Delay Application', by assigning 'cogent', 'coherent' and 'detailed reasons', the instant Comp. App. (AT)(CH)(Ins) No. 23 of 2024 as a 'logical corollary', is 'not entertained' by this 'Tribunal', and the same is hereby rejected. No costs. Connected Pending IAs if any are closed.

[Justice M. Venugopal]
Member (Judicial)

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

SE/TM