

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

**Company Appeal (AT) (Insolvency) No.1347 of 2023
& I.A. No.4682, 4780 of 2023**

IN THE MATTER OF:

**Apurva Kamdar
Suspended Designated Partner of
PCK Corporation LLP**

...Appellant

Versus

Hotel Horizon Pvt. Ltd. & Anr.

...Respondents

Present:

**For Appellant: Mr. Atul Singh and Ms. Mitika Agrawal,
Advocates.**

For Respondents: Mr. Pulkit Kapoor, Advocate for R-2 (IRP).

O R D E R

18.10.2023: I.A. No.4780 of 2023: This is an application praying for condonation of 14 days' delay in filing the Appeal. Ground taken in the application is that the Appellant is immobile and suffering from severe lumbago. Cause shown sufficient, delay in filing the Appeal is condoned. I.A. No. 4682 of 2023 is disposed of.

Learned counsel for the Appellant submits that by the impugned order the Adjudicating Authority has admitted Section 9 application filed by the Operational Creditor whereas prior to issuance of demand notice which was dated 27.12.2019 there were several correspondences by the Corporate Debtor objecting the claim made by the Operational Creditor for payment of license

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fee of the lock-in period. It is submitted that the premises was handed over by the Corporate Debtor on 14.03.2019 and the Operational Creditor has claimed license fee upto period 30.10.2022 which is not permissible since the contract has come to an end and had been frustrated as license of the Appellant terminated. It is submitted that letters issued by the Appellant dated 13.03.2019, 11.04.2019, 17.04.2019 and lastly 19.12.2019 clearly indicate that there was pre-existing dispute between the parties and the Adjudicating Authority ought not to have been admitted the application. Submission needs scrutiny.

Issue notice. Requisites alongwith process fee be filed within three days.

Learned counsel for the IRP is present. He submits that the Operational Creditor has not even deposited the amount as directed by the Adjudicating Authority towards fee and expenses.

In view of the aforesaid, we are of the view that no further steps shall be taken in pursuance of the impugned order. It shall be open for the Operational Creditor to deposit the amount as directed by the Adjudicating Authority.

Learned counsel for the Appellant submits that 06.11.2023 is the next date fixed before the Adjudicating Authority. It shall be open for the Appellant to bring in the notice of the Adjudicating Authority that appeal has been entertained and request the Adjudicating Authority for adjournment of date.

Reply may be filed by the Respondents within three weeks. Rejoinder be filed within two weeks thereafter.

List this Appeal on **11.12.2023**.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Archana/nn