

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

I.A. Nos. 884 & 942 of 2024 in
Company Appeal (AT) (Insolvency) No.280 of 2024

IN THE MATTER OF:

Commercial Tax Department

... Appellant

Versus

Naveen Kumar Sood & Anr.

... Respondents

Present:

**For Appellant : Mr. Shashwat Parihar, Mr. Shashwat Anand and
Mr. Mrinal Elker Mazumdar, Advocates.**

**For Respondent : Mr. Himanshu Satija, Ms. Neha Mehta, Mr. Harsh
Saxena and Mr. Shevaaz Khan, Advocates for R-2.
Mr. Abhinav Agrawal and Mr. Kartik Sharma,
Advocates.**

J U D G M E N T

ASHOK BHUSHAN, J.

Interlocutory Application No. 884 of 2024

This Interlocutory Application (IA) filed for condoning the delay of 51 days in refiling the Appeal. Sufficient cause being shown, the delay of 51 days in refiling the Appeal is hereby condoned. IA No.884 of 2024 is disposed of accordingly.

Interlocutory Application Nos. 942 of 2024

2. This IA has been filed for condoning the delay of 14 days in filing of the Appeal. Notices were issued in this Appeal on the Application for condoning the delay of 14 days in filing of the Appeal on 08.02.2024. Respondent has filed the reply to the Application for condonation of delay in filing, to which the Appellant has also file the rejoinder affidavit.

3. The order impugned was passed on 13.10.2023. This Appeal has been e-filed on 25.11.2023, i.e. with delay of 14 days. The Appellant in delay condonation application has stated that elections were taking place in Madhya Pradesh and the Appellant, who is Commercial Tax Department was involved in election work directed by the State and due to certain requisite documents for the filing of the Appeal, the Appeal could not be filed before the Registry in a timely manner and hence delay was caused.

4. The learned Counsel for the Respondent refuting the submission of the Appellant, submits that the present Appeal cannot be treated to be e-filed on 25.11.2023, since the Appeal, which was e-filed on 25.11.2023, contained only 62 pages and the Appeal, which has been subsequently refiled, now runs into 196 pages. The Appeal, which was filed on 25.11.2023 was a dummy and skeletal filing and cannot be treated as a valid filing in the eyes of law. Initial filing be *non est* and defects being cured on 03.02.2024, hence, the date 03.02.2024 should be treated to be the date of actual filing and from which date, if computed, there is uncondonable delay in filing of the Appeal. The learned Counsel for the Respondent has relied on judgments of the Delhi High Court in the case of ***Delhi Development Authority vs. Durga Constructions Co. – 2013 (130) DRJ 133 (DB)*** and ***SKS Power Generation (Chhattisgarh) Ltd. v. ISC Projects Private Ltd. in OMP (Comm) 132/2019*** decided on 03.04.2019.

5. We, in our judgment of the date in ***IA Nos.1622 & 1623 of 2024 in Company Appeal (AT) (Insolvency) No.115 of 2024*** in the matter of ***Innovators Cleantech Pvt. Ltd. vs. Pasari Multi Projects Pvt. Ltd.*** have considered the above issue and by our detailed judgment, we have already held that for computation of limitation, the date of e-filing of the Appeal has to be taken as the date on which the Appeal is filed, and the date on when the Appeal is refiled after curing the defects, cannot be taken for computation for

the purposes of limitation. We in our judgment of the date in the **Company Appeal (AT) (Insolvency) No.115 of 2024**, have given the reasons for our decision, which needs no repetition in the present case.

6. In view of our judgment in **Company Appeal (AT) (Insolvency) No.115 of 2024**, we are of the view that there is only 14 days delay in filing of the Appeal. We are satisfied that sufficient cause has been shown in the Application filed by the Appellant for condonation of 14 days' delay in filing of the Appeal, which is within the condonable period of 15 days. In view of the above IA No.942 of 2023 filed for condoning the delay is allowed.

List this Appeal for admission on **30th July, 2024**.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

NEW DELHI

24th July, 2024

Ashwani