

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 671 of 2018

IN THE MATTER OF:

Pr. Commissioner of Income Tax (Central)-3, Mumbai ...Appellant

Vs

Raj Oil Mills Ltd. & Ors. **....Respondents**

Present:

**For Appellant: Mr. Sanjay Kumar and Mr. Asheesh Jain,
Advocates.**

For Respondents: Mr. Rajesh Bohra, Mr. Uzair Z Kazi, and Mr. Aditya Narayan, Advocates for R-1.

ORDER

31.01.2019: Taking into consideration the fact that the Income Tax Department was not a party before the Adjudicating Authority and it having come to know of the impugned order dated 19th April, 2018 when free certified copy of the same was provided on 17th September, 2018 and appeal having filed on 22nd October, 2018, learned counsel for Appellant submits that there is only 6 days delay and such delay was caused because during the said period Appellate Tribunal was closed due to Pooja Vacation.

Learned counsel appearing on behalf of the Respondent submits that they have intimated to the Deputy Commissioner of Income Tax, Ward CC 6(1) on 11th June, 2018. But it appears that thereafter Adjudicating Authority served copy of impugned order on Pr. Commissioner of Income Tax (Central)-3, Mumbai, who is the competent authority and then present appeal has been preferred.

As after the application was admitted by the Adjudicating Authority, the Appellant came to know of the impugned order on 17th September, 2017 and thereafter intervened by Pooja Vacations in filing the appeal, we hold that the appeal is within time.

The question arises for consideration is whether Income Tax comes within the meaning of Operational Debt and the Resolution Plan reducing the income tax is in contravention of the Section 30(2)(e) of the I&B Code and if it is in contravention, then which are the provisions of the Income Tax Act which are contravened, as alleged by the Appellant?

Heard the parties. **Judgment Reserved.**

It will be open to the parties to file short written submission, not more than three pages, by 4th February, 2019. Learned counsel for the Income Tax Department will provide the relevant provisions of the Income Tax Act of which violation has been alleged.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansilal Bhat]
Member (Judicial)

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