

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

**Company Appeal (AT) (Insolvency) No. 662 of 2018**

**IN THE MATTER OF:**

**Ravi Goyal**

**...Appellant**

**Vs**

**Butterfly Appliances**

**....Respondent**

**Present:**

**For Appellant: Mr. Rajat S. Thoppil, Ms. Sonali Karwasra and  
Mr. Mayank Badoni, Advocates.**

**For Respondent: Ms. Shradha Agrawal, Advocate.**

**O R D E R**

**31.01.2019:** The Appellant has challenged the order dated 1<sup>st</sup> August, 2018 and filed a petition for condonation of delay. The Appellant has taken plea that the impugned order was passed ex-parte and Appellant had no knowledge till the certified copy of the impugned order was provided to him on 18<sup>th</sup> September, 2018, whereas appeal has been filed on 24<sup>th</sup> September, 2018. Therefore, according to the Appellant there is no delay.

Learned counsel appearing on behalf of the Respondent submits that the Appellant had knowledge of pendency of the matter. However, there is nothing on record to suggest that any notice was issued by the Adjudicating Authority.

In any case, the certified copy having provided to the Appellant on 18<sup>th</sup> September, 2018 and the Appellant having preferred the appeal on 24<sup>th</sup> September, 2018, we hold that the appeal has been filed within the period of limitation. Therefore no separate order for condonation of delay is required to be passed.

Learned counsel for the Appellant submits that no demand notice under Section 8(1) was served on the Corporate Debtor. Further, learned counsel for the Appellant submits that if demand notice issued by the Adjudicating Authority had been served, it could have brought to the notice of the Adjudicating Authority that no debt is payable to the Operational Creditor in fact. Whatever amount was payable to the Operational Creditor has been already paid by cheque and cash, in which respect there is evidence with the Appellant.

Learned counsel appearing on behalf of the Respondent prays for and allowed 10 days' time to file reply to the main appeal. Rejoinder, if any, may be filed within a week thereof.

Post the case 'for admission' on **7<sup>th</sup> March, 2019** on the top of the list. The appeal may be disposed of on the next date.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

*am/sk*