

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Comp. App. (AT) (Ins.) No. 1095 of 2022**

In the matter of:

Prosper Housing Finance Ltd.

....Appellant

Vs.

**Jagdish Singh Nain, Resolution Professional, HBN
Foods Ltd.**

...Respondent

For Appellant: Mr. Manu Bansal, Mr. Dhruv Gupta, Advocates

For Respondent: Mr. Abhishek Naik, Mr. Mrigank Kumar, Ms.
Gulafsha Kureshi, Advocates

ORDER

10.10.2022: Heard Learned Counsel for the parties.

2. This Appeal has been filed against the order dated 13.12.2021 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi Bench-II, by which order the Adjudicating Authority has allowed the Application filed by the Resolution Professional under Sections 66, 68, 69 & 70. The Appellant before us was Respondent No.14 in the Application, although the Appellant was served notice but no reply was filed.

3. Learned Counsel for the Appellant submits that he has not been served hence, he could not file the Reply.

4. Learned Counsel for the Respondent submits that notices were served but no Reply was filed.

5. This Appeal was taken up by this Tribunal on 15.09.2022 on which date, following order was passed:-

“15.09.2022: I.A. No. 3187 of 2022

This is an application praying for condonation of 84 days delay in re-filing of the appeal. The ground taken in the affidavit is that the certified copy which was to be filed for removing the defect was given only on 05.08.2022 and thereafter some time was taken for collating the documents. Re-filing delay is condoned.

Learned Counsel for the Appellant submits that although there is no delay in filing the appeal but as abundant caution delay condonation application has been filed. It is submitted that order was passed on 13.12.2021 and the appeal has been filed on 27.05.2022 which is within limitation as per the order of the Hon'ble Supreme Court in suo moto Writ Petition (Civil) No. 3 of 2020.

Learned Counsel for the Appellant submits that Resolution Professional has already send the email to the Appellant informing that accounts have been reconciled and there is no due on the Appellant. He prays for and is allowed two weeks time to file additional Affidavit.

Learned Counsel for Resolution Professional is present. He also submits that the accounts have been reconciled and there are no dues on the Appellant.

List this Appeal on 10th October, 2022.”

6. In pursuance of the order dated 15.09.2022, an Additional-Affidavit has been filed by the Appellant by which the e-mail sent by the Resolution Professional on 27.05.2022 has been brought on the record. The Resolution Professional by e-mail has communicated to the Appellant that there are no outstanding dues of the Appellant and the accounts/ ledger have been reconciled.

7. Learned Counsel for the Resolution Professional submits that the payments were made by the Appellant which has now been acknowledged.

8. In view of the aforesaid, we are of the view that the direction issued in the impugned order insofar as Appellant is concerned are set aside.

9. The Appeal is disposed of accordingly.

**[Justice Ashok Bhushan]
Chairperson**

**[Dr. Alok Srivastava]
Member (Technical)**

**[Barun Mitra]
Member (Technical)**

Anjali/nn