

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

Company Appeal (AT) (Insolvency) No. 655 of 2023

IN THE MATTER OF:

Canara Bank

...Appellant

Versus

**Commercial Tax Department Circle 09, Indore,
Madhya Pradesh & Anr.**

...Respondents

Present:

For Appellant: Advocate Kaustubh Rai, Advocate Anuj Tiwari,
Advocate Nikhil Anand, Advocate Swankit Nanda,
Advocate Rahul Kumar

For Respondent:

ORDER

22.05.2023: Heard Learned Counsel for the parties.

2. This Appeal has been filed against the Judgement and Order dated 21.04.2023 by which the Adjudicating Authority has allowed IA/69(MP)2023 directing the Liquidator to accept the full claim as was filed by the Respondent No. 1.

3. In the Corporate Insolvency Resolution Process, claim was filed by the Commercial Tax Department Circle 09, Indore which was admitted. Liquidation Process began and thereafter the Liquidator invited claims which was to be filed by 04.09.2022. The Respondent No.1 filed its claim in Form-C on 23.09.2022. Liquidator sent an email rejecting the claim filed in Form-C on the ground that it is filed long after limitation expired for filing the claim. The Liquidator however admitted the claim to the extent of 23,05,11,486/- which was admitted in the CIRP process. The Respondent No.1 preferred an Appeal styled as I.A. No.

69(MP)2023 on 27.02.2023 praying that entire claim of the Respondent be accepted. Liquidator filed its Reply and Adjudicating Authority by the impugned order has accepted I.A.69(MP)2023 and directed the Liquidator to reconsider the claim submitted in Form-C.

4. Canara Bank aggrieved by the aforesaid order, has come up in this Appeal challenging the direction issued by the Adjudicating Authority to the Liquidator.

5. Learned Counsel for the Appellant submits that there was no reason given for condonation of delay in filing the Appeal under Section 42 and the Adjudicating Authority erred in relying on the Judgement of the Hon'ble Supreme Court in **State of Bihar & Ors. vs. Kameshwar Prasad Singh**, SLP (C) No. 10653 of 1998. Learned Counsel has relied on the Judgement of the Hon'ble Supreme Court in **State of Madhya Pradesh & Ors. Vs. Bherulal**, (2020) 10 SCC 654 and submits that in view of the Judgment inordinate delay by Government or State Authority does not deserve condonation.

6. We have heard Learned Counsel for the Appellant and perused the record.

7. The Judgement which has been relied by Learned Counsel for the Appellant i.e. State of MP & Ors. Vs. Bherulal was a case where SLP was filed with delay of 663 days. The observations of the Hon'ble Supreme Court came in wake of the aforesaid facts of the case where the Hon'ble Supreme Court deprecated the approach of the government authority relying on judicial pronouncement for a period of time where technology had now been advanced and ground were given by the government.

8. Be that as it may, the said judgement of the Hon'ble Supreme Court which has been relied by Learned Counsel for the Appellant was a case where delay of 663 days was in filing the Appeal. The present is a case where the claim was filed with 19 days delay and after not acceptance of the claim by the Liquidator, Appeal was filed with delay of 111 days. It is submitted that the time for filing the Appeal under Section 42 is 14 days only. The present is a case where claim was admitted in the CIRP Process and when Liquidation commenced the claim was filed of the same amount with interest claim hence we are of the view that in the interest claim, the rejection on the ground that it is filed with the delay was not correct and has already been set aside by the Adjudicating Authority. The delay in filing the Appeal under Section 42 is clearly condonable while exercising the power under Section 5 of the Limitation Act.

9. Learned Counsel for the Appellant submits that there is no ground given in the Application for condonation of delay but in the facts of the present case, sequence of the events and facts of the case itself indicate that the filing of the claim with interest can not be said to with any laches or any inordinate delay and ought to have been rejected. In the facts of the present case, the Adjudicating Authority has rightly condoned the delay and directed the Liquidator to consider the said claim in Form C. We do not find any merit in the Appeal, the Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

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