

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

**Company Appeal (AT) (Insolvency) No. 1189 of 2019  
With Interlocutory Application No.3492 of 2019**

**IN THE MATTER OF:**

Digvijay Tanwar Singh

.... Appellant

Vs

Sonia Rani & Ors.

.... Respondents

**Present:**

**For Appellant:            Appeared but attendance not marked.**

**For Respondents:**

**O R D E R**

**11.11.2019**        This appeal has been preferred by Digvijay Tanwar Singh, Ex-Director, KST Infrastructure Limited ('Corporate Debtor') against judgement dated 27<sup>th</sup> March, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Principal Bench, along with application for condonation of delay of 92 days.

2.        Learned Counsel for the Appellant submits that the Appellant filed Writ Petition before the Hon'ble Supreme Court under Article 32 of the Constitution of India, challenging the provision of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the '**I&B Code**'), whereby the allottees were included as 'Financial Creditors' and interim stay was granted, which was ultimately dismissed. For the said reason, this Appeal has been preferred by the Appellant with a delay of 92 days.

3.        Section 61, sub-section (2) stipulates limitation in preferring the Appeals before the Appellate Tribunal, reads as follows: -

***"61. Appeals and Appellate Authority.—(1)  
Notwithstanding anything to the contrary contained  
under the Companies Act 2013, any person aggrieved  
by the order of the Adjudicating Authority under this***

*part may prefer an appeal to the National Company Law Appellate Tribunal.*

*(2) Every appeal under sub-section (1) shall be filed within thirty days before the National Company Law Appellate Tribunal:*

*Provided that the National Company Law Appellate Tribunal may allow an appeal to be filed after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal but such period shall not exceed fifteen days.*

*(3) An appeal against an order approving a resolution plan under section 31 may be filed on the following grounds, namely:—*

- (i) the approved resolution plan is in contravention of the provisions of any law for the time being in force;*
- (ii) there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period;*
- (iii) the debts owed to operational creditors of the corporate debtor have not been provided for in the resolution plan in the manner specified by the Board;*
- (iv) the insolvency resolution process costs have not been provided for repayment in priority to all other debts; or*
- (v) the resolution plan does not comply with any other criteria specified by the Board.”*

4. From the aforesaid provision of sub-section (2) of Section 61, it is clear that this Appellate Tribunal has no jurisdiction to entertain an Appeal after 15 days of the expiry of the period of thirty days.

5. In view of the above, as this Appellate Tribunal has no jurisdiction to entertain an appeal after 15 days of the expiry of the period of 30 days, we have no option, but to dismiss the Appeal on the ground of limitation. In view of the above, application for condonation of delay as well as the Appeal is dismissed.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice Venugopal M.]  
Member (Judicial)

[Justice Jarat Kumar Jain]  
Member (Judicial)