

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins) No. 533 of 2026 &
I.A. No. 2055 of 2026

IN THE MATTER OF:

Aruna Bhupendra Vasa

...Appellants

Versus

...Respondents

Present:

For Appellant : Ms. Eshna Kumar and Ms. Astha Agrawal,
Advocates.

For Respondents : None.

O R D E R
(Hybrid Mode)

23.03.2026: **I.A. No. 2055 of 2026**

This is an application praying for condonation of 13 days delay in filing the appeal. The ground given in the application is that appellant is based in State of Maharashtra and her physical signatures and affirmation is mandatory required on the appeal affidavit and time was taken for obtaining such affirmations, was also taken in collating the requisite information. We find sufficient cause for condoning the delay. Delay condoned. I.A. No. 2055 of 2026 is disposed of.

2. Heard counsel for the appellant.

3. This appeal has been filed against the order dated 19.01.2026 by which application under Section 94 filed by the appellant has been rejected. The Adjudicating Authority had allowed time by order dated 08.07.2025, time of seven days for removing the defects. When the application came for consideration on 19.01.2026; Adjudicating Authority has noticed that

additional-affidavit was filed on 02.08.2025 for removing the defects. Adjudicating Authority took the view that since the defects have not been cured within seven days petition is dismissed in terms of the order dated 08.07.2025.

4. Counsel for the appellant submits that time provided for seven days for curing the defects is not mandatory, appellant relies upon the judgment of Hon'ble Supreme Court in ***Surendra Trading Company Vs. Juggilal Kamlapat Jute Mills Company; (2017) 16 SCC 143***, wherein Paragraph-21 & 22 of Hon'ble Supreme Court has laid down as follows:-

“21. We are not able to decipher any valid reason given while coming to the conclusion that the period mentioned in the proviso is mandatory. The order of NCLAT, thereafter, proceeds to take note of the provisions of Section 12 of the Code and points out the time-limit for completion of insolvency resolution process is 180 days, which period can be extended by another 90 days. However, that can hardly provide any justification to construe the provisions of the proviso to sub-section (5) of Section 9 in the manner in which it is done. It is to be borne in mind that limit of 180 days mentioned in Section 12 also starts from the date of admission of the application. Period prior thereto which is consumed, after the filing of the application under Section 9 (or for that matter under Section 7 or Section 10), whether by the Registry of the adjudicating authority in scrutinising the application or by the applicant in removing the defects or by the adjudicating authority in admitting the application is not to be taken into account. In fact, till the objections are removed it is not to be treated as application validly filed inasmuch as only after the application is complete in every respect it is required to be entertained. In this scenario, making the period of seven days

contained in the proviso as mandatory does not commend to us. No purpose is going to be served by treating this period as mandatory. In a given case there may be weighty, valid and justifiable reasons for not being able to remove the defects within seven days. Notwithstanding the same, the effect would be to reject the application.

22. *Let us examine the question from another lens. The moot question would be as to whether such a rejection would be treated as rejecting the application on merits thereby debarring the applicant from filing fresh application or it is to be treated as an administrative order since the rejection was because of the reason that defects were not removed and application was not examined on merits. In the former case it would be travesty of justice that even if the case of the applicant on merits is very strong, the applicant is shown the door without adjudication of his application on merits. If the latter alternative is accepted, then rejection of the application in the first instance is not going to serve any purpose as the applicant would be permitted to file fresh application, complete in all aspects, which would have to be entertained. Thus, in either d case, no purpose is served by treating the aforesaid provision as mandatory.”*

5. When the defects were cured and the affidavit was filed it is well within the power of Adjudicating Authority to extend the time for curing the defects. We are of the view that ends of justice be served in reviving the petition under Section 94 for fresh consideration of additional affidavit dated 02.08.2025 which has already been filed by the appellant for curing the defects. In result the order dated 19.01.2026 is set aside. Company P (IB) No. 640/MB/2025 is revived for fresh consideration as above.

We make it clear that we are not expressing any opinion on the merits of petition under Section 94 of the IBC.

**[Justice Ashok Bhushan]
Chairperson**

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

harleen/MD