

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

**I.A. No. 5350 of 2024 in**  
**Company Appeal (AT) (Insolvency) No.1470 of 2024**

**IN THE MATTER OF:**

**Industrial Forgings Industries Pvt. Ltd.**

**...Appellant**

**Versus**

**A2Z Infra Engineering Ltd.**

**...Respondent**

**Present:**

**For Appellant : Ms. S. Shah and Mr. Aniket Chaudhury, Advocates.**

**For Respondent : Mr. Tushar Mudgil, Mr. Nikhil Kohli, Mr. Kushank Garg, Advocates.**

**O R D E R**

**(13<sup>th</sup> January, 2025)**

**Ashok Bhushan, J.**

This is an application praying for condonation of delay in filing the appeal. The order impugned was delivered on 08.12.2023 by NCLT, Chandigarh Bench (Court-II), Chandigarh. This appeal has been filed on 12.06.2024. Notices were issued on the Delay Condonation Application. Reply has been filed by the Respondent to which Rejoinder has also been filed. In the application the ground taken by the Appellant is that after passing of the order dated 08.12.2023, the Appellant filed an application before the Adjudicating Authority for correction of order dated 08.12.2023 which was heard and decided on 29.04.2024 correcting the date of order from 08.12.2022 to 08.12.2023. In paras 3 and 4 of the application following reasons have been given:

*Cont'd..../*

*“3. After the passing of the order dated 8th December, 2023 and while drafting the appeal from the said order it transpired that the date of the order has gone in as 8th December, 2022 instead of 8th December, 2023 as such the Petitioner filed an application before the Learned Chandigarh Bench seeking correction of the said order dated 8th December, 2023 which was heard on 29th May, 2024 and an order was passed incorporating the correction in the order dated 8th December, 2023. The petitioner craves leave to rely upon the said orders at the time of hearing, if necessary.*

*4. After the passing of the order incorporating the clerical/typographical error the Petitioner, based in Kolkata, got the appeal prepared by its Advocates in Kolkata and settled by a Senior Advocate and ready to be filed. The office of the Learned Advocate was only awaiting the certified copies of the orders which were applied for by a clerk at Chandigarh so engaged by the petitioners. On 24th May, 2024 when, upon constant following up and calling the said clerk, the Learned Advocate got to know from the family member of the Learned clerk who received the call that the said clerk had passed away in the meantime and they were unable to assist with whereabouts of any certified copies, the Learned Advocates not having much time in hand and not left with any other option instructed his office to send the affirmed appeal and the application along with dasti copies to the filing Clerk at Delhi. The courts at Delhi were off for the summer vacations on and from 31st May, 2024 and the filing clerk at Delhi*

*had some important medical issue to be addressed. The petitioner's advocate then got another reference of a clerk who was available to file the said appeal and the same was finally filed on 12th June, 2024. Thus, it was only due to circumstances beyond the control of the petitioner that the instant appeal was filed 14 days beyond the 30 days period.”*

2. In the Reply filed by the Respondent, it is submitted that the appeal is filed beyond the condonable period. It is submitted that order was delivered on 08.12.2023 and although in the end of the order date mentioned is 08.12.2023 but on the first page of the order the date was mentioned as 08.12.2022. It is submitted that admittedly the order was delivered on 08.12.2023, hence, the limitation for filing the appeal shall commence from the said date. It is submitted that the certified copy of the order was obtained on 13.12.2023 and application was filed on 13.01.2024 for correction of date and order of correction was passed by the Adjudicating Authority on 29.04.2024 and certified copy of the order was obtained on 24.05.2024 and the present appeal could be filed on 12.06.2024. It is submitted that the order dated 29.04.2024 does not make any correction or modification in the order and only correction is made in the date of the order as 08.12.2023 in place of 08.12.2022, which was wrongly recorded in first page of the order. It is submitted by learned counsel for the Respondent that the order having delivered on 08.12.2023, which date was mentioned in the end of the order, there was no impediment to the Appellant for filing the appeal within the prescribed limitation period. The Appellant did not file the appeal within

limitation period and it could only be filed on 12.06.2024, which is beyond condonable period. Learned counsel for the Respondent in support of his submission has relied on judgment of this Tribunal in “**Company Appeal (AT) (Ins.) No.1585 of 2024 & I.A. No.5760 of 2024, Yerramaneni Ramakrishna & Ors. Vs. Suraksha Realty Ltd. & Ors.**”, where this Tribunal held that the fact that the order was corrected by the Court on subsequent date shall not give any right to the Appellant to claim that limitation shall commence only from the date on which order was corrected.

3. We have considered the submissions of learned counsel for the parties and perused the record.

4. The order was delivered by the Court on 08.12.2023 and 30 days’ period of limitation came to end on 07.01.2024 and further 15 days’ period expired on 22.01.2024. The reason for not filing the appeal as claimed by the Appellant is that the application for correction of the order was filed by the Appellant before the Adjudicating Authority on 13.01.2024 i.e. after 30 days from passing of the order. IA which was filed for correction was allowed on 29.04.2024 where the Adjudicating Authority has noted that judgment was delivered on 08.12.2023, which is also clearly evident from the contents of the order as well as the last page of the order. Thus, the application was allowed and it was noted that the typographical error correcting the judgment stands corrected and order may be read as part of the main order dated 08.12.2023. Order dated 29.04.2024 is as follows:

**“ORDER**

**IA No. 910/2024**

*This is an application filed under Rule 11 of NCLT Rules. The applicant has sought the relief of passing an order correcting the year of the judgment.*

*We have heard the submission made by the counsel for the applicant. In the first page of the order of this Adjudicating Authority, the judgment delivered is typed as 08.12.2022 whereas said judgment was delivered on 8.12.2023 which is also clearly evident from the contents of the order as well as the last page of the order, therefore, for all material purposes this Adjudicating Authority hereby confirms that the judgment is delivered on 08.12.2023 not on 08.12.2022. The present application is allowed and the typographical error correcting to the judgment stands corrected by this order. This order may be read as a part of the main order dated 08.12.2023.*

*Dasti of this order is allowed.”*

5. A short question arises as to whether limitation for filing the appeal shall commence from 08.12.2023 or it shall commence from 29.04.2024. Appellant’s submission is that when the limitation is computed from 29.04.2024, the delay is only 14 days. The judgment relied by learned counsel for the Respondent in **“Yerramaneni Ramakrishna & Ors. Vs. Suraksha Realty Ltd. & Ors.”** do support the submission of the Respondent in the above case where the typographical error in mentioning the date as 13.06.2024 was corrected as 13.05.2024. In the judgment Para 7, the

correction allowed by the Court was noticed. This Tribunal in Para 8 noticing the **V. Nagarajan's** judgment of the Hon'ble Supreme Court has held that the limitation for filing the appeal shall commence after pronouncement of the order. After noticing submissions of both the parties in the above case, in Paras 9 to 11 following was laid down by this Tribunal:

*"9. The bone of contention between the parties is as to whether the Appeal is filed with delay of 15 days or with delay of 16 days. Appellant contends that the Appeal has been filed with the delay of only 15 days whereas Respondent contends that the Appeal has been filed with the delay of 16 days. The basis of submission of the Appellant is that the order dated 14.05.2024 on which date the typographical error in the date of pronouncement mentioned in the order dated 13.05.2024 was corrected.*

*10. Counsel for the Appellant in support of his case has relied on judgment of this Tribunal in "**Ashok Tiwari**" (supra). Ashok Tiwari was a case where an order was passed on 17.01.2023 dismissing the application filed by the Appellant as not maintainable. Appellant thereafter filed an application for rectification of the order on 15.02.2023 which was partly allowed by order dated 21.03.2023. Appeal was filed in this Tribunal on 12.05.2023. It was contended that the Appeal against the order dated 21.03.2023 was filed within time since copy was applied on 21.03.2023 and issued on 17.04.2023. In the above background, this Tribunal held that the order dated 17.01.2023 was merged with the order dated 21.03.2023 due to partial*

rectification. Paragraph 4 of the judgment is as follows:-

*“4. We have considered the submissions made by both sides and we find that the Appellant herein had filed for rectification of Order dated 17.01.2023 on 15.02.2023 which is within 30 days of the said Order. The Order dated 17.01.2023 was partly rectified vide Order dated 21.03.2023 and, excluding the period taken for obtaining the certified copy, the Appeal has been filed within 30 days of the said Order. The Order dated 17.01.2023 has merged with the Order dated 21.03.2023 due to partial rectification.”*

11. The judgment of this Tribunal in Ashok Tiwari has no application in the facts of the present case. Since present is not a case of modification of the order. The Application filed by the Appellant in the above case for rectification of the order was partly allowed and order was modified and earlier order dated 17.01.2023 was modified, hence, this Tribunal held that earlier order stood merged with the subsequent order dated 21.03.2023. Present is not a case of any modification of the judgment dated 13.05.2024. The order delivered on 13.05.2024 in no manner was modified or changed. What was corrected was only a typographical error in the date of pronouncement which was wrongly mentioned as 13.06.2024 in place of 13.05.2024. The Hon'ble Supreme Court in **“V. Nagarajan”** (supra) has categorically held that period of limitation in filing the Appeal commences from the date when order was pronounced. In **“V. Nagarajan”** (supra), the order was passed on 31.12.2019 by the NCLT and the Hon'ble Supreme Court held that 30 days period expired on

*30.01.2020. The proposition laid down by the Hon'ble Supreme Court in "**V. Nagarajan**" (supra) is fully attracted in the present case. When the order was pronounced on 13.05.2024, 30 days period expired on 12.06.2024 and Appeal was filed on 28.06.2024 i.e. 16th day after expiry of limitation. Our jurisdiction to condone the delay is limited to 15 days only as per Section 61(2) proviso. We, thus, are unable to condone the delay of 16 days' in filing these two Appeals. The Delay Condonation Applications are dismissed. Consequently, the memo of Appeals is rejected."*

6. In the above case it was held that period of limitation in filing the appeal commences from the date when order was pronounced. Relying on the aforesaid precedent, we are of the view that in the present case the limitation for filing the appeal shall commence from 08.12.2023, the date when order was pronounced by the Tribunal. As noted above, date of pronouncement is also noted in the end of the order which is apparent from page 47 of the order, which is to the following effect:

*"28. In the light of the above, we are of the considered view that the petitioner has not made out a case for initiation of CIRP under Section 9 of the Insolvency and Bankruptcy Code, 2016, therefore, present Section 9 petition is dismissed without cost.*

-Sd-  
**(Umesh Kumar Shukla)**  
**Member (Technical)**

-Sd-  
**(Dr. P.S.N. Prasad)**  
**Member (Judicial)**

December 08, 2023

VVC "

7. However, on the first page of the order by inadvertent mistake the date of judgment has been mentioned as 08.12.2022, which being an inadvertent error has subsequently corrected. The correction is only correction of date and not any correction of judgment or any modification of the judgment. In event, the judgment was modified on subsequent date, the submission of the Appellant could have been considered that fresh limitation period shall commence from the date when the order was modified. There is no case that there was modification of order rather there is correction of the date of the order. Further, there is no dispute between the parties that judgment was delivered on 08.12.2023, which is an admitted fact. We, thus, are of the view that limitation for filing the appeal shall commence from 08.12.2023 and the appeal which was filed by the Appellant was beyond condonable period i.e. beyond 45 days. We, thus, do not find any ground to condone the delay. The application for condonation of delay deserves to be rejected and is hereby rejected. Consequently, the Memo of Appeal is also rejected.

**[Justice Ashok Bhushan]  
Chairperson**

**[Arun Baroka]  
Member (Technical)**

*Archana/nn*