NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) (Insolvency) No. 2058 of 2024
&
I.A. No. 7255 of 2024

[Arising out of the Order dated 10.08.2023, passed by the 'Adjudicating Authority' (National Company Law Tribunal, Mumbai Bench) in CP(IB)/341/MB-IV/2022]

IN THE MATTER OF:

M/ s LBF Publications Private Limited Agarwal
House, 1st Floor, 5 Yeshwant Colony,
Indore, Madhya Pradesh – 452003
E: accounts@lbf.in; piyush@lbf.in **...Appellant**

Versus

M/s A & A Business Consulting Private Limited
Office No.115, 1st Floor, Orion Business Park,
Next to Cine Wonder Mall, Kapurbawdi,
Ghodbunder Road Thane, Thane
Maharashtra – 400607 **...Respondent**

Present:

For Appellant	:	Mr. Vinay Kumar Jain, Ms. Mohana Sharda, Mr. Deepanshu Bansal, Advocates
For Respondent	:	Mr. Akshay Petkar and Mr. Pranav Shah, Advocates.

J U D G M E N T
(Hybrid Mode)

[Per: Arun Baroka, Member (Technical)]

The Appellant – LBF Publications Private Limited – Operational Creditor has filed the present Appeal under Section 61 of the IBC, challenging the Order dated 10.08.2023 passed by the NCLT, Mumbai Bench in CP (IB) No. 341/MB-IV/2022, whereby the Adjudicating Authority dismissed the Section 9 Application filed by the Appellant against A & A Business Consulting Private Limited – Corporate Debtor (CD). The CP was dismissed without considering the correct date of default dated 16.07.2021 which was clearly stated in the Rejoinder.

2. Both sides were heard after completion of the pleadings and also perused the materials on record.

3. Before proceeding further on merit, we find that the records show that there is undue delay of refiling of the Appeal by about 390 days. IA No. 7255 of 2024 was filed by the Applicant for condonation of delay in refiling the present Appeal. Before deciding the case on merit, we notice the contents of the Application for condonation of delay of 390 days in refiling the present Appeal and we find that the Applicant in application for condonation of delay has prayed as follows:

> "....
>
> 2. The Applicant has raised all the grounds for assailing the aforementioned impugned judgment and final order in the accompanying appeal and is not repeating the same in the present applications for the sake of brevity and would seek liberty of this Hon'ble court to that the grounds of the appeal as forming part of this application.
>
> 3. That, the <u>delay was unintentional and for reasons beyond control of the appellant. That, the present appeal involves. important questions of law and merits adjudication of the same by this Hon'ble Appellate Tribunal and deserves to be adjudicated.</u>
>
> 4. That the contents of the appeal are relied on herein and not repeated for the sake of brevity The application is filed in the interest of justice."

4. In this case the date of e-filing of the Appeal was 9th September 2023. Defects were notified by the Registry on 16th September 2023. Date of refiling

by the Appellant is 16th October 2024. Therefore, there is a delay in re-presentation of the Appeal by 389 days.

5. In accordance with National Company Law Appellate Tribunal Rules, 2016, the Appellant should have cured the defects within a period of 7 days i.e., on or before 24.09.2023 from the date of notification of defects by the Registry, which did not happen in this case. The relevant extract of the 2016 Rules is reproduced herein below:

> "**26. Endorsement and scrutiny of petition or appeal or document**.-(1) The person in charge of the filing-counter shall immediately on receipt of appeal or document affix the date and stamp of the Appellate Tribunal thereon and also on the additional copies of the index and return the acknowledgement to the party and he shall also affix his initials on the stamp affixed on the first page of the copies and enter the particulars of all such documents in the register after daily filing and assign a diary number which shall be entered below the date stamp and thereafter cause it to be sent for scrutiny.
>
> (2) If, on scrutiny, the appeal or document is found to be defective, such document shall, after notice to the party, be returned for compliance and if there is a failure to comply within seven days from the date of return, the same shall be placed before the Registrar who may pass appropriate orders.
>
> (3) The Registrar may for sufficient cause return the said document for rectification or amendment to the party filing the same, and for this purpose may allow to the party concerned such reasonable time as he may consider necessary or extend the time for compliance.
>
> (4) Where the party fails to take any step for the removal of the defect within the time fixed for the same, the Registrar may, for

reasons to be recorded in writing, decline to register the appeal or pleading or document."

6. Further Rule 14 of the NCLAT Rules, 2016 which deals with Power to exempt, provides a mandate to this Hon'ble Appellate Authority to exempt compliance with any requirement of the rules prescribed only in situations where sufficient cause has been shown, in the interest of justice.

7. The delay in refiling can be condoned only if this Tribunal is satisfied that there was reasonable and justifiable cause for not refiling the Appeal on time. Moreover, the question of condoning any delay in refiling can be seen in the context of the explanation offered to find out whether the reasons cited were beyond the control of the Appellant and all efforts were made to overcome the delay with due diligence and utmost care. In this case we find the only reason canvassed is that *"delay was unintentional and for reasons beyond control of the appellant",* which is no reason or justification.

8. Perusal of the above application for condonation of refiling delay does not provide sufficient cause for delay. It is to be noted that IBC is a self-contained code and has a time bound mechanism for all proceedings to be completed. It prescribes certain time limit within which the appeal has to be filed and if it is not filed within that time period, the Appellate Authority does not have any statutory power to condone the delay beyond that time period.

9. In this case, we find that there is a undue long delay in refiling which is more than a year and furthermore no cause has been provided - leave apart sufficient cause to be considered by us. Therefore, we find it difficult to

condone the refiling delay of 389 days. We therefore dismiss the IA No. 7255 of 2024 for condonation of refiling delay. Accordingly, the memo of Appeal is also dismissed.

[Justice N Seshasayee]
Member (Judicial)

[Arun Baroka]
Member (Technical)

New Delhi.
October 13, 2025.

pawan