

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 928 of 2025

&

I.A. No. 3603 of 2025

IN THE MATTER OF:

Ambience Airtech Pvt. Ltd.

...Appellant

Versus

Gaursons Hi-Tech Infrastructure Pvt Ltd & Ors.

...Respondents

Present:

For Appellant : Mr. Kunal Madan, Mr. Shyam Babu and Mr. Rahul Mathrru, Advocates.

For Respondents : Mr. Shikhar Khare, Mr. Utkarsh and Ms. Bhanupriya Singh, Advocates.

O R D E R
(Hybrid Mode)

10.09.2025: I.A. No. 3603 of 2025

- 1.** This is an application praying for condonation of delay in filing of the appeal.
- 2.** The order impugned was passed on 11.03.2025 and this appeal has been e-filed on 07.05.2025.
- 3.** Learned counsel for the appellant submits that order was uploaded on 27.03.2025 hence the limitation commenced on 27.03.2025 and hence the delay is within condonable period of only 11 days. Learned counsel for the appellant also relied on paragraph 19 of the judgment of the Hon'ble Supreme Court in the matter of '**Sanjay Pandurang Kalate' Vs. 'Vistra ITCL (India) Ltd. & Ors.'** in [Civil Appeal No. 7467 & 7468/2023].

4. Learned counsel for the respondent opposing the application submits that order was pronounced in the Court which order clearly mentions as an oral order and which was in presence of learned counsel for both the parties who had appeared. He submits that when order was pronounced in the open Court the limitation shall begin from the date when order was dictated and in the present case appellant has not even applied for the certified copy of the order nor has sought any exemption.

5. We have considered the submissions of counsel for the parties and perused the records.

6. The application which was filed by the appellant for condonation of delay, in paragraphs 4 to 6 appellant has given following explanation:

“4. It is most respectfully submitted that the impugned/final order dated 11.03.2025, order was uploaded and communicated only on 27.03.2025, as per the standard procedure of the Registry of the Adjudicating Authority.

5. That the period of limitation for filing the present appeal, computed from the date of communication/uploading of the impugned order (i.e., 27.03.2025), expired on 26.04.2025. However, the appeal was filed on 07.05.2025, resulting in a delay of 11 days.

6. That the Appellant, acting diligently upon receipt of the uploaded order, initiated the process of filing the appeal immediately thereafter. However, due to the short timeline, complexity of the matter, necessity of legal consultations, collation of documents, the present appeal could only be filed on 07.05.2025”

7. An affidavit has also been filed by the appellant in support of the delay condonation application where appellant has brought on the record the screen shot to show that order was uploaded on 27.03.2025. He further

submits that the earlier order 03.03.2025 was upload only on 18.03.2025. He submits that on 03.03.2025 the matter was not listed.

8. The question to be considered in the present application is as to what is the date on which date the limitation shall commence. The order impugned indicates that order is an oral order which was passed in presence of both the parties. The hearing was through VC and Hybrid Mode. The application was under Section 9, the counsel appeared for the applicant whose name was mentioned in the order itself and after hearing both the parties, application under Section 9 was rejected. It is not the case that any application for certified copy was applied by the appellant. The judgment of the **‘Sanjay Pandurang Kalate’ (supra)** which is relied by the appellant was a case where both the parties have submitted that no substantive order was passed on 17.05.2025 on the date when order was passed. In paragraph 19 of the judgment, Hon’ble Supreme Court laid down following:

*“19. In the present case, the cause list for 17 May 2023 placed on record by the appellant indicates that the case was listed for admission and not for pronouncement. Further, on a specific query of the Court, it is not in dispute between counsel for the appellant and the respondent, that no substantive order was passed on 17 May 2023 by the NCLT. In these circumstances, limitation would not begin to run on 17 May 2023 which was the date on which hearings concluded. As no order was passed before 30 May 2023, there was no occasion for the appellant to lodge an application for a certified copy on 17 May 2023. Time for filing an appeal would commence only when the order appealed from was uploaded since prior to that date no order was **pronounced.**”*

9. In the present case, learned counsel for the respondent is refuting the submission of the appellant that no order was dictated on 11.03.2025 rather

respondent submits that both the parties were present in the hearing and after the hearing the oral order was dictated in the open court.

10. In view of the above, the appellant is not entitled for the benefit of paragraph 19 of the judgment in '**Sanjay Pandurang Kalate**' (*supra*). The uploading of the order cannot be commencement of the limitation. In the present case, we find that the limitation has to be calculated with effect from 11.03.2025 when the order was dictated and the appeal having been filed beyond the condonable period. Hence, the delay condonation application cannot be allowed.

Delay condonation application is rejected. Consequently, the appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

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