NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)
IA No.967/2025
in

Company Appeal (AT) (CH) (Ins) No.319/2025
(IA Nos. 966 & 968/2025)

In the matter of:

Central Board of Trustees, Rep by the
Regional Provident Fund Commissioner, EPFO … Appellant
V
Sreenivasa Rao Ravinuthala, RP of Bodhtree
Consulting Ltd. & Anr. ...Respondents

Present :
For Appellant : Mr. R. Vishnu, Advocate
For Respondents : Mr. Indraprateek Naidu, Advocate for R2

ORDER
(Hybrid Mode)

08.08.2025:

The Challenge in the Instant Company Appeal, as given by the Appellant, is to the Impugned Order dated 12.12.2023, which is said to have been later on amended by corrigendum order dated 01.01.2024, as rendered in IA(IBC) No.1504/2023 in CP (IB) No.271/9/HDB/2020. According to the Appellant, the Instant Company appeal, is supported with a Condone Delay Application, being IA No.967/2025, where the Appellant according to his pleading have sought a Condonation of 43 days of delay, which has been otherwise reported by the Registry, that actually there happens to be 33 days of delay in filing the Appeal.

According to the Report of the Registry, the Appeal was e-filed on 13.02.2024. The Appellant has come up with the case that, the delay of 33 days, which is being sought to be condoned, will have to be determined from the date when the rectified/Corrigendum order was rendered by the Tribunal on 01.01.2024.

Secondly, he submits that, since he, not being a party to the proceedings, he did not have knowledge of the Impugned Order and hence he was in capacitated to prefer an Appeal, within the appropriate time. The Ld. counsel for the Appellant had submitted that, the determination of limitation has to be done from 01.01.2024, i.e from the corrigendum order, for the reason being that as per the principle of merger, the limitation has to be determined from 01.01.2024, because the ultimate effectiveness of the Impugned Order dated 12.12.2023 attained finality after passing of the corrigendum order, on 01.01.2024. According to the argument extended by the Ld. counsel for the Appellant, he intends to substantiate his pleading by virtue of the Judgment rendered by the Principal Bench in ***Company Appeal(AT)(Ins) No. 729/2023, in the matter of Ashok Tiwari Vs Tattva & Mittal Lifespaces Pvt Ltd,*** wherein in it has been observed, that if rectification of an order, is done on the subsequent date, the period, between the date of the order and the date of the rectification has to be excluded, while computing the limitation period, on the reasoning that the Appellate Tribunal has ruled in Monish Kumar and Anr. V Mohit Chawla RP of Premsons super steels Pvt Ltd and Ors reported as 2020 SCC online NCLAT 918 that rectification of order should have been pursued before filing the Appeal and that since the responsibility of rectification has been cast upon the Appellant, the time between passing of main order and passing of rectification order should not be held against the party and hence it has to be excluded while computing the period of limitation, owing to the principles of merger of the order dated 17.01.2023, Ultimately it has been held by the Appellate Tribunal, in Para 6 of the Judgment of Ashok Tewari (Supra) that the intervening period, between the date of the final order and till the date of the rectification, has to be excluded.

We have to bear in mind that in the aforesaid case, the rectification was not by way of exercising of Suo motu powers under Rule 154 of the NCLT Rules, as it has been in the case at hand, in the cited case, the party applies for rectification in the instant case after passing of the order the Tribunal found that, there was some typographical error, which had chanced in rendering the Judgment and it proceeded to rectify the same by its Suo-moto orders passed on 01.01.2024. In case we see the corrigendum order itself, the correction was being carried in the order by the Tribunal, though in the exercise of powers under Section 154,of the NCLT Rules, but that too, when it was admittedly after the uploading of the order that, was rendered on 12.12.2023. In that eventuality, there was nothing which prevented the Appellant to put a challenge to the order dated 12.12.2023, within the prescribed period of limitation as it cannot be said that he was waiting for rectification of an order which he had not asked for in the first place and which was carried by the tribunal, in exercise of the inherent powers under Rule 154 of the NCLT Rules. Rule 154. Such rectification, done Suo motu by the Tribunal to correct certain typographical error cannot be adopted as an avenue for the Appellant to seek a benefit of limitation, contrary to the spirit and purpose of the limitation as prescribed under Section 61 of the I&B Code, 2016. The Ld. counsel for the Appellant submitted that, he is entitled to set the benefits from the ratio laid down in the judgment of ***Ashok Tiwari Vs Tattva & Mittal Lifespaces Pvt Ltd,*** as it has been affirmed by the Hon'ble Apex Court, vide its judgment of 08.01.2024. However, apart from the fact that, the facts and circumstances in the matters of ***Ashok Tiwari Vs Tattva & Mittal Lifespaces Pvt Ltd,*** were entirely distinct to the one involved in the instant Company Appeal, there could be another reason not to accept the ratio as laid down therein because ,its affirmation by the Hon'ble Apex Court is by way of dismissal in limine but not by virtue of a ratio decidendi. The Ld. counsel for the Appellant, had referred to yet another Judgment that was rendered by the Hon'ble Apex Court in Civil Appeal No. 5360 of 2019, ***Surinder Pal Soni Vs Sohan Lal(D) thru L.Rs,*** where the Hon'ble Apex Court, when it was dealing with the aspect of limitation, in relation to the execution proceedings emanating from a suit for specific forms. We will have to bear in mind that in normal civil law, where the general Provisions of limitation act has been applicable, they have to be construed in altogether in different fashion rather than, what has been contemplated under Section 61, of I&B Code 2016 I & B Code is a special statute, which excludes the applicability of Limitation Act, As far as the Appeals to be preferred under

Section 61, of I&B Code, 2016, are concerned, determination of limitation as applied in the aforesaid ratio of ***Surinder Pal Soni Vs Sohan Lal(D) thru L.Rs*** may not be applicable under the instant case because of the applicability of a different set of law governing a two judicial proceedings, which are independent to one another.

Finally, the Ld. counsel for the Appellant, had argued that, he was not a party to the proceedings and hence he could not get knowledge of passing of the impugned order. The Principal Bench has already held that not being a party to the proceedings, cannot be a reason to seek the benefit of limitation and more particularly when the order has already been uploaded and has been put in public domain. Hence, there would be a deeming presumption with regards to the knowledge of the order as soon as it is uploaded. In that eventuality, filing of a belated Appeal with a delay of 33 days as reported by the Registry would be barred by limitation. We had an occasion to deal with the matter, as to what would be the implication of a rectification order, which has been put to challenge in a Company Appeal, as to what bearing it will have for the purposes of determination of limitation in matters of ***M/s. Hira Multi Construction Ventures vs Mohammed Imtiyazuddin***, in CA(AT)(CH)No. 115/2023and we have already dealt with in para 15, that the rectification cannot be taken as to be the basis for determining the period of limitation and have held that it has to be construed from the date of the passing of the Principal order. Para 15 of the said Judgment is extracted hereunder:

> *This Appellate Tribunal as observed, that any rectification application or order passed on it, which has been made subsequent to the principal Order, will not be construed to be the basis determined as to be a cutoff for the purposes of computing the limitation under the special Act which contemplates a strict time bound process, because the scope of rectification under Section 152 of the CPC, cannot be indicated to act as a substitute to the principal Order*

Owing to the aforesaid, the number of days of 33 delay which has been sought to be condoned, runs much beyond the period prescribed under, of limitation under Section 61 of I& B Code 2016, The delay Condonation Application being **IA No.967/2025**, would stand 'rejected' and as a consequence thereto the Company Appeal would too stand 'Dismissed'.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

GL/MS/RS