

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

I.A. No.8554 of 2024

IN

Company Appeal (AT) (Insolvency) No. 2273 of 2024

IN THE MATTER OF:

**Atul Babulal Prajapati & Anr.
(Suspended Director and Promoter of WSH Pvt. Ltd.)**

...Appellants

Versus

Suhas Dinkar Bhattbhatt & Ors

...Respondents

Present:

**For Appellants: Ms. Honey Satpal, Mr. Nipun Singhvi, Ms. Mayur
Jugtawat, Advocates.**

For Respondents: Mr. Mandeep Skngh Salyon, Advocate for R-1.

ORDER

(06th March, 2025)

Ashok Bhushan, J.

This is an application praying for condonation of delay of 15 days in filing the Appeal. The Appeal has been filed against the order dated 01.10.2024 passed by the Adjudicating Authority (National Company Law Tribunal) Ahmedabad, Division Bench, Court-1 by which application filed by the Resolution Professional being IA No.556/NCLT/AHM/2021 has been partly allowed and partly rejected. Appellant aggrieved by the said order has filed this Appeal.

2. This Appeal has been e-filed on 15.11.2024. The Appellant's case in application is that Appellant had gained the knowledge of the order only after a week of pronouncement. Appellant is a vegetable vendor and he failed to understand the intricacy of legal process and the strict timeline. Appellant approached its counsel on 10.11.2024 thereafter, the appeal has been prepared and e-filed on 15.11.2024. In support of delay condonation, an additional affidavit has been filed by the appellant where appellant has pleaded that it came to know about the order on 23.10.2024 and his arguing counsel was not present which is apparent from the order sheet. Appellant has also stated about his ill-health. It is pleaded that as per Rule 3 of the NCLAT Rules, 2016, the day on which the judgment is pronounced to be excluded, hence, the appeal filed on 15.11.2024 is within condonable period.

3. Counsel for the Respondent filed a reply to the application as well as additional-affidavit in reply. The case of the Respondent is that Appeal has been filed on 46th day, hence, Appeal has been filed beyond condonable period and delay condonation application deserves to be rejected. It is pleaded that the delay cannot exceed the statutory outer limit of 15 days. Additional affidavit in reply-affidavit further pleads that applicant/appellant has made incorrect statement that he became aware of the order through e-mail dated 23.10.2024. Details were communicated vide e-mail dated 09.10.2024. Further whatsapp call was made to the Appellant on 01.10.2024 by liquidator on his mobile number. It is further stated that the medical certificate filed along with affidavit are not genuine and applicant has not shown any sufficient cause for condonation of delay.

4. We have considered the submissions of the Counsel for the parties and perused the record.

5. The first question which need to be answered is that as to whether the appeal is filed within condonable period of 15 days or appeal has been filed beyond 15 days. It is settled law that jurisdiction to condone the delay vested in this Tribunal is only 15 days as per Section 61(2) proviso. The order was delivered on 01.10.2024. As per Rule 3 of the NCLAT Rules, 2016, the day from which the said period reckoned shall be excluded. Thus, 01.10.2024 has to be excluded. Rule 3 of the NCLAT Rules, 2016 is as follows:-

***“3. Computation of time period.-** Where a period is prescribed by the Act and these rules or under any other law or is fixed by the Appellate Tribunal for doing any act, in computing the time, the day from which the said period is to be reckoned shall be excluded, and if the last day expires on a day when the office of the Appellate Tribunal is closed, that day and any succeeding day on which the Appellate Tribunal remains closed shall also be excluded.”*

6. For computing the 30 days' period, if the last day expires on a day when the office of the Tribunal is closed, that day and any succeeding day on which the Appellate Tribunal remains closed shall also be excluded. After excluding 01.10.2024 from computation, limitation of 30 days was expiring on 31.10.2024. From 30.10.2024 to 03.11.2024, it was holidays both for the Court as well as the Registry (Diwali Holidays). We in our judgment in Company Appeal (AT) (Insolvency) No.1862 of 2024- **“BSE Limited vs.**

Mrudula Brodie & Ors.” delivered on 21.02.2025 has held that for computing 30 days’ period, if 30th day is fallen on holiday, the said period also need to be excluded. In the present case, 03.11.2024 being holiday for office also, the last day of limitation for filing the appeal on 04.11.2024. Appeal admittedly has been filed on 15.11.2024, hence, while computing the limitation as per Rule 3, the delay in filing the appeal shall be 11 days. Appellant in the application, however, has come up with the case that 15 days’ delay be condoned. We, thus, are of the view that delay in filing the appeal is within the condonable period, delay being only 11 days in filing the appeal.

7. Now coming to the submission of the Respondent that the case of the Appellant is that he came to know about the order only on 23.10.2024 and he was communicated on 01.10.2024 itself by WhatsApp call by liquidator. Appellant is not claiming any benefit from date of knowledge of the order. As per the law laid down by the Hon’ble Supreme Court in **“V. Nagarajan vs. SKS Ispat and Power Limited and Ors. (2022) 2 SCC 244”**, limitation for filing the appeal commences on the day when order is pronounced. The question as to when the appellant came to know about the order is inconsequential, since the limitation for filing the appeal shall begin from the date of pronouncement of the order and 01.10.2024 being to be excluded as per Rule 3, 30th day shall be on 31.10.2024 which as noted above was holiday for the office. Appeal could have been filed on 04.11.2024 i.e. on the re-opening day.

8. Insofar as submission of the Respondent that medical document which has been filed by the Appellant along with additional-affidavit which are not

genuine, medical certificate only indicate that Appellant was suffering from backache since 25.09.2024. The said medical certificate has no bearing in the present case since delay of 15 days has to be explained by the appellant after expiry of period. Appellant in his application for condonation as well as in additional affidavit has pleaded that he has approached his counsel on 10.11.2024 and gave instructions. The delay in filing the appeal is within condonable period as noted above. It is further to be noted that Appellant claims to be vegetable vendor who has pleaded that he is not familiar with legal procedure.

9. We find that there is sufficient cause for condonation of delay which is within condonable period. Delay condonation application is allowed.

10. List the appeal for admission on 10.03.2024.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

New Delhi
Anjali