

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 2242 of 2024
& I.A. No. 8422 of 2024

IN THE MATTER OF:

Kotak Mahindra Bank Ltd.

...Appellant

Versus

Mohit Kumar

+

Legal Heir of Naresh Kumar, Personal Guarantor

...Respondent

Present:

For Appellant : Mr. Manish Jain, Ms. Divya Sharma, Mr. Siddhant Jain, Mr. Manan Jain, Advocates.

For Respondent : Ms. Aakriti Mittal, Advocate.

O R D E R
(Hybrid Mode)

23.01.2025: **I.A. No. 8422 of 2024:** This is an application praying for condonation of 19 days' delay in filing the appeal. Order impugned was passed on 30.08.2024 and this appeal has been e-filed on 18.10.2024.

2. Learned counsel for the Appellant submits that after 30.08.2024 all Saturdays and Sundays which are falling within 45 days should be excluded. He submits that if these 8 days are excluded, this application is within limitation period i.e. within 45 days. Learned counsel for the Appellant has relied on judgment of this Tribunal in "***Sandeep Anand Vs. Gopal Lal Baser; Company Appeal (AT) (Ins.) No.767 of 2023***" decided on 03.07.2023.

3. The law as provided in the Limitation Act as well as Rule 3 of the NCLAT Rules, 2016 is that when last day of limitation falls on a public holiday, the said period shall be excluded. Thus, when last days of limitation i.e. 30th day

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is falling on public holiday, benefit of said public holiday can be extended to the applicant. The submission of the Appellant that all Saturdays and Sundays which are falling within 45 days should be excluded is clearly an absurd argument and not as per the benefit available in Limitation Act as well as Rule 3 of the NCLAT Rules, 2016. The judgment of this Tribunal in **“Sandeep Anand Vs. Gopal Lal Baser”** which has been relied by the Appellant is to the following effect:

“ORDER

I.A. No. 2587 - *This is an application praying for condonation of delay. Under Section 61 sub-section (2) proviso, the jurisdiction to condone the delay conferred to this Tribunal is only 15 days. The ground taken in paragraph 5 of the affidavit is that 7th April was declared as a 'Public Holiday' and 8th and 9th being holiday, the appeal is treated to be filed within 45 days.*

2. *We are of the view that the benefit as claimed in paragraph 5 is not available which benefit can be availed only with respect to the period of limitation provided with regard to period of 30 days.*

3. *We, thus, are of the view that the delay in filing the appeal being beyond 15 days, the application praying for condonation of delay has to be dismissed. Consequently, the memo of appeal is rejected.”*

4. The said judgment in no manner support the submission of the Appellant, in which case the application was dismissed and benefit of public

holidays was not given. We fail to see how that judgment can aid the submission of the Appellant. Our jurisdiction to condone delay is limited to 15 days only as per Section 61(2) proviso. There being delay of 19 days, which delay is beyond condonable period, we are unable to condone the delay. Hence, application for Condonation of Delay is rejected. In result, Memo of Appeal is also rejected.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

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

Archana/nn