

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI
(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No. 553/2025
(IA Nos. 1564, 1565 & 1566/2025)

In the matter of:

Workmen of Dunlop Polymers Ltd.

Represented by Dunlop Polymers Employees Union,
A unit of Mysore Div. Industrial Workers,
General Union, Reg. No. MYS 167/78,
No. 2, K.V. Bhavana, Kamakhi Hospital Road,
Saraswathipuram, Mysore 560009

... Appellant

VS

1. M/s. Miller Trader Private Ltd.

9/EZRA. ST, Kolkata, West Bengal,
India – 700001.

2. Dunlop Polymer Pvt. Ltd.

139-C, Belagola Industrial Area,
Metagalli Mysore, Mysore,
Karnataka (India) – 560016

... Respondents

Present:

For Appellant : Mr. Sree Narain Jha and Ms. Prathibaa, Advocate

For Respondents : Mr. ML Ganesh, Advocate for R1

ORDER
(Hybrid Mode)

07.11.2025:

Oral Judgment: Justice Sharad Kumar Sharma, Member (Judicial)

The challenge as put forth by the Appellant in the instant Company Appeal is to the impugned order dated 29.05.2025, that has been rendered by the learned NCLT, Bengaluru Bench, in IA No.893/2024, that was preferred in CP(IB) No.123/BB/2019, wherein the Application, which was preferred under Sub-

Section 5 of Section 60 of the I & B Code, 2016, to be read with Rule 11 of the NCLT Rules, 2019, has been rejected. At this stage we are not required to venture into merits of the Appeal, since the applications praying for condoning the delay in filing of the Appeal and in re-filing the Appeal need to be decided at the first instance.

2. The Company Appeal is accompanied with an Application, **IA No.1564/2025**, seeking condonation of delay of 36 days in filing the Appeal and an Application, **IA No.1566/2025** seeking condonation of 58 days in re-filing the Appeal.

3. As far as the Application pertaining to seeking condonation of delay in re-filing is concerned, the Appellant states it to be 74 days whereas the Registry of this Tribunal has computed it to be 58 days. We need not to go into this aspect meticulously because delay in re-filing a Company Appeal arises primarily on account of procedural bottlenecks in submission of documents to the Registry as required by it and therefore, the delay in re-filing of a Company Appeal will exclusively fall to be within the domain of the Tribunal and the Appellant. Accordingly, the delay of 58 days that has chanced in re-filing of the Appeal would stand condoned and the Application, **IA No. 1566/2025** would stand allowed.

4. Now we will proceed to deal with the Application, **IA No. 1564/2025**, seeking for condonation of delay of 36 days in filing the Appeal. In the light of the provisions contained under Sub-Section 2 of Section 61 of the I & B Code,

2016, which is the Appellate provision under I & B Code, 2016, which prescribes the timeline for the preference of appeals before the NCLAT, an appeal against the order of the Adjudicating Authority has to be filed before NCLAT within 30 days and the Appellate Tribunal, while exercising its powers under the proviso to Sub-Section 2 of Section 61 of the I & B Code, 2016, can extend the said period by a maximum 15 days of condonable period, subject to it being satisfied that there is a sufficient cause. The said provision is extracted hereunder: -

“Section 61. Appeals and Appellate Authority.

(1) Notwithstanding anything to the contrary contained under the Companies Act 2013 (18 of 2013), any person aggrieved by the order of the Adjudicating Authority under this part may prefer an appeal to the National Company Law Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be filed within thirty days before the National Company Law Appellate Tribunal:

Provided that the National Company Law Appellate Tribunal may allow an appeal to be filed after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal but such period shall not exceed fifteen days.”

5. Thus, the provision contained under the proviso to Sub-Section 2 of Section 61 of the I & B Code, 2016, creates an absolute restriction that the timeline for filing an appeal against an order of Adjudicating Authority cannot exceed the upper limit of 45 days. This position has been time and again reiterated by various judgements of Hon’ble Apex Court and this Tribunal too, starting with the Judgement delivered by Hon’ble Apex Court in “**V. Nagarajan vs. SKS Ispat & Power Ltd. and Ors.**, (2022) 2 SCC 244”. In the instant case, the impugned

order was rendered on 29.05.2025; the copy of the said order was made available on 02.06.2025, and the Company Appeal was e-filed on 07.08.2025. There is nothing on record to show nor it is case of the Appellant, that the Appellant had ever applied for obtaining the certified copy of the impugned order nor it is a pleading raised by him in the Application. In that eventuality, the period of limitation has to be determined from the date of pronouncement of the impugned order, which is 29.05.2025 and in that case, the appeal is found to have been filed beyond the maximum permissible period of 45 days. Further, even if the limitation is computed from date of receipt of the free copy of the impugned order, i.e., 02.06.2025, the Appeal would still be barred by limitation, having been filed beyond the prescribed condonable period under the proviso to Sub-Section 2 of Section 61 of the I & B Code, 2016.

6. We will not hesitate to observe that, the Appellant has not been fair to this Appellate Tribunal, the reason being that, he has chosen not to disclose the filing of a Writ Petition by him before Hon'ble High Court of Karnataka and the orders passed therein. In the Condone Delay Application, he has pleaded certain grounds for seeking condonation of delay, as contained in para 2 & 3 of the Application which are: (1) that he is based in Mysuru and the orders were passed in Bengaluru, (2) that he came to know of the impugned order only on 02.06.2025, (3) that he had to discuss the same with his counsels in Bengaluru to decide on filing the appeal, and (4) that he had to find a counsel in Chennai and send the relevant documents to him to prepare the Appeal, all of which consumed time and hence

he could file the appeal with a delay of 36 days which should be condoned as he will suffer irreparable harm if the delay is not condoned.

7. What is agonising to note is that, the Petitioner is not as ignorant as he has portrayed himself in the Application. In fact, after getting to know about the impugned order on 02.06.2025 as per his own pleading he had approached the Hon'ble High Court of Karnataka, by filing a Writ Petition, being WP No.17528/2025, in which an order was passed on 19.06.2025, granting liberty to the Appellant to approach this Appellate Tribunal for filing of the Appeal. The 45-day period computed from 29.05.2025 (date of pronouncement of the impugned order) would have ended on 13.07.2025 and thus, the Appellant had a clear 24 days' time from 19.06.2025 to file the Appeal within the limitation period which he has failed to do. Even if the Appellant claims that he had erroneously chosen the incorrect forum to appeal, it will not come to his rescue because he had sufficient time to prepare and file the appeal before NCLAT before the expiry of limitation.

8. The Appellant in his Condone Delay Application, has chosen not to disclose the fact of filing of the Writ Petition and passing of the order dated 19.06.2025. The learned counsel for the Appellant, during the arguments, has instead attempted to take shelter under the provisions contained under Section 5 of the Limitation Act, 1963, stating that the Tribunal has powers to admit an appeal beyond the prescribed period on production of sufficient cause and that the Tribunal may show its generosity by extending the limitation period as this

involves grievances of the workers. We are afraid to accept the argument of the Appellant counsel for the reason being that, any statute which has self-contained provision prescribing for a period of limitation, the general law of limitation as contemplated under Section 5 of the Limitation Act, 1963, will not be applicable. Specifically on this limited ground itself that the Company Appeal has been preferred at a much belated stage beyond the upper limit of 45 days as prescribed under the proviso to Sub-Section 2 of Section 61 of the I & B Code, 2016, and that this Tribunal has no jurisdiction to condone delay beyond the prescribed 15 days, the Condone Delay Application, being **IA No. 1564/2025**, would stand rejected. As a consequence, the Company Appeal would also stand dismissed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)