

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI
(APPELLATE JURISDICTION)
COMPANY APPEAL (AT) (CH) (Ins) No. 131/2025
IA Nos. 351, 352, & 353/2025

In the Matter of:

Mr. Gajjala Yoganand
Member of suspended Board of directors
of Manjeera Retail Holdings Private Limited
R/o. Plot No. 18, Aswini Heights,
Road No. 70, Jubilee Hills, Hyderabad,
Telangana- 500033

Email: gyn@manjeera.com

... Appellant

Vs

1. Mr. Birendra Kumar Agarwal, Resolution Professional M/s. Manjeera
Retail Holdings Private Limited
#711, Manjeera Trinity Corporate,
Beside Manjeera Mall,
JNTU-Hitech City Road,
Kukatpally, Hyderabad, Telangana-500072

Email: cirp.mrhpl@gmail.com

... Respondent No. 1

2. The Committee of Creditors
For Manjeera Retail Holdings Private Limited
Represented by Lead Creditor
Catalyst Trusteeship Limited
Registered office at GDA House,
Plot No. 85, Bhusari Colony (Right),
Paud Road, Pune 411038

Email: kunjal.patil@ctltrustee.com

... Respondent No. 2

WITH

COMPANY APPEAL (AT) (CH) (Ins) No. 133/2025
IA Nos. 357, 358, 359 & 360/2025

In the Matter of:

Mr. Gajjala Yoganand
Member of suspended Board of directors of
Manjeera Retail Holdings Private Limited
R/o. Plot No. 18, Aswini Heights,
Road No. 70, Jubilee Hills,
Hyderabad, Telangana-500033

Email: gyn@manjeera.com

...Appellant

Vs

1. Mr. Birendra Kumar Agarwal,
Resolution Professional,
M/s. Manjecra Retail Holdings Private Limited
#711, Manjeera Trinity Corporate,
Beside Manjeera Mall.
JNTU-Hitech City Road,
Kukatpally, Hyderabad, Telangana-500072
Email: cirp.mrhpl@gmail.com

... Respondent No. 1

2. The Committee of Creditors
For Manjeera Retail Holdings Private Limited
Represented by Lead Creditor
Catalyst Trusteeship Limited
Registered office at GDA House,
Plot No. 85, Bhusari Colony (Right),
Paud Road. Pune-411038
Email: kunjial.patil@ctltrustee.com

... Respondent No. 2

Respondents **Present:**

For Appellant : Mr. Saurabh Jain, Advocate
For Respondent : Mr. Sanjay Kishore, Advocate

JUDGMENT
(Hybrid Mode)

[Per: Justice Sharad Kumar Sharma; Member (Judicial)]:

1) These are two Company Appeals; being CA (AT) (CH) (Ins) No. 131/2025 and CA (AT) (CH) (Ins) No. 133/2025. Both these company appeals are accompanied with Interlocutory Applications seeking for an exemption in filing the legible copy of the documents. Those two applications would be deemed to be disposed of, as no orders are required to be passed on the same.

2) The other two applications, which would be a subject matter of concern, are application for Condonation of Delay in re-filing, being **IA No.**

353/2025, which has been preferred in **CA (AT) (CH) (Ins) No. 131/2025**, where the Appellant has sought the condonation of 210 days of delay, which has chanced in refiling the Appeal.

3) In the other connected Company Appeal being, **CA (AT) (CH) (Ins) No. 133/2025**, there happens to be an application seeking condonation of delay, in refiling the Appeal being, **IA No. 360/2025**, where the Appellant has sought the condonation of 213 days of delay.

4) Before dealing with the applications seeking condonation of delay in refiling of the respective Company Appeals, it will be apt to narrate, the precise facts, which are being referred to therein. In the **CA (AT) (CH) (Ins) No. 131/2025**, the challenge is given by the Appellant is to the Impugned Order dated 18.06.2024, as it was passed in **IA(IBC)No. 1225/2024**, as preferred in the Company Petition **IB No. 296/7/HDB/2022**. By virtue of the aforesaid application, the Appellant had sought to raise certain additional grounds, in a pending application **IA No. 765/2024**, which was already heard on 08.05.2024 and the order therein was reserved on 05.06.2024. By filing the said Interlocutory Application, the Appellant had sought to amend the grounds, which the Applicant had already taken for the purposes of pressing the **IA No. 765/2024**.

5) The same was rejected by an order dated 18.06.2024, on the ground that, when in an Interlocutory Application, in a pending main proceeding, was

already pending consideration at the interlocutory stage, whether there cannot be another Interlocutory Application in the same IA for similar reliefs.

6) In the accompanying Company Appeal, challenge has been given to the Impugned Order, rendered on 18.06.2024, which recorded its findings, that in the absence of there being any sustainable documents being placed on record pertaining to the Corporate Debtor being a registered MSME Company, coupled with the fact that the Udyam Certificate submitted by the Appellant cannot be taken into consideration as it was obtained by misrepresentation made before the concerned government authority, the Appellant cannot claim the exemption granted under Section 240 A of I & B Code and hence would remain ineligible to submit a resolution plan under Section 29A of IBC, 2016.

7) Be that as it may, the present controversy is about determining is as to whether, the delay, which has chanced in refiling the respective Appeals, which are of 210 and 213 days respectively, (as given in the delay condonation applications filed by applicant) could at all be condoned in the light of the stipulations contained under Rule 26 of the NCLAT Rules.

8) The reasons adduced by the Appellant in the respective applications in support of his plea to condone the delay in refiling of the appeals are extracted as under :-

(iii) IA No. 353/2025:
BASIS ON WHICH THE INTERIM ORDER
ARE PRAYED FOR:

“a) It is respectfully submitted that the Applicant herein has filed the instant Company Appeal on 18.07.2024 through E-Filing with vide E Filing No 9805130/01541/2024 However, the Physical Copy of the said Appeal was not filed within the appropriate time due to the fact that the physical copies were misplaced during the transit from Hyderabad to Chennai and further the Appellant's counsel was able to trace the same only in February, 2025. Moreover, upon scrutinizing the appeal papers through the e-filing portal, the Hon'ble authority found some defects which were informed to the Appellant vide the email dated 22.07.2024 at the email saurabhjain.law@gmail.com.

b) the above defects were to be removed within seven days from the receipt of the above-mentioned email, the date thereon expired on 28.07.2024 That, there is a delay of 210 days in refiling the present matter as the present matter is being refiled on 23.02.2025

c) It is respectfully submitted that the delay in refiling the present matter occurred due to the fact that certain documents, which were essential for adjudication, were illegible. Consequently, steps to obtain legible copies of these documents caused inadvertent delay.”

(iii) IA No. 360/2025:

BASIS ON WHICH THE INTERIM ORDER ARE PRAYED FOR:

a) It is respectfully submitted that the Applicant herein has filed the instant Company Appeal on 18.07.2024 through E-Filing with vide E Filing Nos. 9805130/01531/2024, 9805130/01532/2024 and 9805130/01533/2024, However, the Physical Copy of the said Appeal was not filed within the appropriate time due to the fact that the physical

copies were misplaced during the transit from Hyderabad to Chennai and further the Appellant's counsel was able to trace the same only in February, 2025. Moreover, upon scrutinizing the appeal papers through the e-filing portal, the Hon'ble authority found some defects which were informed to the Appellant vide the email dated 19.07.2024 at the email saurabhjain.law@gmail.com.

b) the above defects were to be removed within seven days from the receipt of the above-mentioned email, the date thereon expired on 28.07.2024 That, there is a delay of 210 days in refiling the present matter as the present matter is being refiled on 23.02.2025.

c) It is respectfully submitted that the delay in refiling the present matter occurred due to the fact that certain documents, which were essential for adjudication, were illegible. Consequently, steps to obtain legible copies of these documents caused inadvertent delay.”

9) Thus, it is claimed that the physical copy of the Appeal could not be filed within the appropriate time, because the same got misplaced during the transit from Hyderabad to Chennai and “that further the Appellant’s Counsel was able to retrieve the records only in February 2025” as pleaded. The reasons attributed for seeking condonation of delay in refiling are similar in both the appeals. The question which possibly emerges for consideration by this Appellate Tribunal is, as to “*whether the reason aforesaid could at all be taken to be satisfactory for the purposes of condonation of an inordinate*

delay in refiling of 210 and 213 days.” In fact, the reasons which have been given contain certain glaring omissions as below: -

(i) there is no specific date, that as to on what date the records were claimed to be misplaced.

(ii) no specific individual has been named, from whose custody the records are said to have got misplaced.

(iii) there are no details with regards to as to how the documents were retrieved all of a sudden by the Appellant’s Counsel in February, 2025.

10) Because of the above, the very basis of the plea of seeking condonation of 210 days and 213 days of delay in refiling the Company Appeals, has no legs to stand. Apparently, it seems to have been manufactured by the Appellant so as to create a ground for the purposes of seeking condonation of delay in refiling. In CA (AT) (CH) (Ins) No. 131/2025, the facts which has come on record are that the Company Appeal was e-filed on 18.07.2024 and after that for the first time the defects were pointed out to the Appellant on 22.07.2024 and that the defects were rectified only when the Company Appeal was refiled on 23.02.2025, after 210 days of delay. Similarly, in the connected Company Appeal i.e, CA(AT)(CH)(Ins) No. 133/2025, the Appeal was e-filed on 18.07.2024 and after the intimation of defects made as back as

on 19.07.2024, it was refiled only on 23.02.2025 i.e., after a delay of 213 days.

11) In both the applications thus preferred for condonation of delay, infact there happens to be no justifiable grounds in the explanation given for the delay of 210 days and 213 days respectively. It has been argued by the Learned Counsel for the Appellant that the reason given in the Condoned Delay Application ought to be treated to be sufficient reason for the purposes of condonation of delay and a liberal view has to be adopted, so as to condone the delay, which has chanced in refiling the Appeal and the Appeal itself may be heard on merits.

12) The application for seeking condonation of delay in refiling has been vehemently opposed by the Respondent on the ground that, the reason for the delay as given in the application was that the records of the documents got missing and they were only retrieved at later stage cannot be accepted and that this ground is not available to be argued by the Appellant, because of the fact that, the appellant was represented by three counsels and even if there is lack of diligence in handling the records by one of the counsels, the other counsels on record still did have a sufficient authority on record to rectify the defects within the time prescribed under the statute. This Appellate Tribunal is of the view that in any litigation, where there is more than one counsel on record for a party and their authority is still surviving under the eyes of law,

the dereliction on the part of the one will not restrict the other counsels on record to take appropriate diligent action to ensure that the appeal is filed in time and owing to the aforesaid reasons lack of diligence on part of Appellant in re-filing the Appeal leading to the delay is established, particularly in the light of the objection raised by the Respondent Counsel.

13) There cannot be any dispute as such that, for the purposes of condonation of delay, the yardstick to be adopted will have to be much rigid in the case of filing of the Company Appeal than in the case of re-filing the same, because the former is shaped by provisions of Section 61(2) of the Code while condonation of delay in re-filing is dealt with under Rule 26 of NCLAT Rules, 2016. Further, provisions of Rule 26 of NCLAT Rules 2016, is not to be rigidly construed in its applicability and some flexibility could be granted to it, because the nature of delay in re-filing is largely procedural in nature, not materially affecting the rights of the parties and it has been treated so far to be exclusively an issue between this Appellate Tribunal and the Appellant. However, the question still remains, as to whether such latitude could at all be given for Condonation of Delay in re-filing when the delay is over 200 days and when application itself does not satisfactorily explain the delay, which could appeal to the Tribunal to be genuine for condoning the delay.

14) On the issue of condonation of delay in refiling the appeals, there are various contradictory views taken by the different courts of the country, the majority tending to take a liberal view. However, the aspect of Condonation of Delay in other types of cases, cannot be put at a common parlance to the condonation of delay in refiling in the appeals contemplated under the I & B Code, where timely disposal of cases is given paramount important. In the instant case, when the knowledge of the defect itself was imparted to the Appellant, more than 200 days prior to the refiling of the Company Appeal, there has been an apparent dereliction on part of the Appellant and that too without there being any sufficient cause given in the application for Condonation of Delay in refiling. The word ‘sufficient cause’ itself will mean that it would be necessary for the parties availing the benefit of condonation of delay to explain the reasons, which will then provide a latitude to condone delay of an act and to permit to perform an act which has otherwise stands debarred by time. The inference drawn to phrase ‘sufficient cause’ in Para – 13 of the Judgment reported in **AIR 2011 SC 1150, in the matters of Parimal v. Veena @ Bharti**, was that, even while considering the aspect of delay in refiling too, the courts are supposed to do substantial justice not only to the appellant, but also to all the parties and therefore taking a liberal approach for condoning the delay, should not be considered at the cost of the other party to the proceedings so as to give an unnecessary benefit of

condonation of delay for a cause which otherwise dies with time. The relevant para – 13, of the said judgement is extracted hereunder:-

“13 “Sufficient Cause” is an expression which has been used in large number of Statutes. The meaning of the word “sufficient” is “adequate” or “enough”, in as much as may be necessary to answer the purpose intended. Therefore, word “sufficient” embraces no more than that which provides a platitude which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case and duly examined from the view point of a reasonable standard of a cautious man. In this context, “sufficient cause” means that party had not acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or the party cannot be alleged to have been “not acting diligently” or “remaining inactive”. However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. (Vide: Ramlal & Ors. v. Rewa Coalfields Ltd., AIR 1962 SC 361, Sarpanch, Lonand Grampanchayat v. Ramgiri Gosavi & Anr., AIR 1968 SC 222; Surinder Singh Sibia v. Vijay Kumar Sood, AIR 1992 SC 1540, and Oriental Aroma Chemical Industries Limited V. Gujarat Industrial Development Corporation & Another, (2010) 5 SCC 459).”

15) The five judges’ bench of the principal bench of NCLAT, New Delhi, had dealt with the pedestals, as to how a conjoined interpretation can be given

to the aspect of delay in the principal proceedings, and to the delay in refiling. In fact, the inference has been drawn in Para – 33 of the judgement as it was rendered in the matters of **V.R. Ashok Rao & Ors. Vs. TDT Copper & Ors.** as reported in **MANU/NL/0692/2022**. The relevant paragraph is extracted hereunder :-

“33. We, thus, are of clear opinion that limitation prescribed-for-filing an appeal under Section 61 and Section 421 of Companies-Act cannot be imported while considering condonation of delay in refilling/representation. We may, however, hasten to add that condonation of delay in refilling/representation has to be examined on case-to-case basis. As noticed above, the criterion for considering an application for condonation of delay under Section 5 may not be strictly applicable when question of condonation of delay in refilling/re-presentation arises. A party who is exercising its right to file a statutory appeal in time has not to be shut out on some procedural or technical defects and when defects notified have been removed although with some delay, question to be considered is as to whether there was justifiable cause for delay or not. The time period allowed for removal of the defects is only directory. Hon'ble Supreme Court in Surendra Trading Company v. Juggilal Kamlatpat Jute Mills Co Ltd & Ors MANU/SC/1248/2017 (2017) 16 SCC 143” came to consider the proviso to Section 7(5), 9(5) and 10(4) of the Code which prescribed 7 days period for removal of defects in application for initiation of Corporate Insolvency Resolution Process. Appellate Tribunal has held that 7 days period is mandatory and rejected the application for non-compliance. Hon'ble Supreme Court has allowed the appeal and held that the period

of 7 days cannot be held to be mandatory rather it is directory. Following was laid down in Paras 24 and 25:

"24. Further, we are of the view that the judgments cited by the NCLAT and the principle contained therein applied while deciding that period of fourteen days within which the adjudicating authority has to pass the order is not mandatory but directory in nature would equally apply while interpreting proviso to sub-section (5) of Section 7, Section 9 or sub-section (4) of Section 10 as well. After all, the applicant does not gain anything by not removing the objections inasmuch as till the objections are removed, such an application would not be entertained. Therefore, it is in the interest of the applicant to remove the defects as early as possible.

25. Thus, we hold that the aforesaid provision of removing the defects within seven days is directory and not mandatory in nature. However, we would like to enter a caveat."

16) If the said paragraph is taken into consideration, it only summarises as to the manner, in which an interpretation is to be given to the issue of limitation prescribed under the appellate jurisdiction of the NCLAT though the condonation of delay contemplated under Section 5 of the Limitation Act, which as per the opinion expressed by the five judges' bench, have to be tested under an altogether different yardstick.

17) The principal bench in its Judgement rendered in the matters of **Innovators Cleantech Pvt. Ltd. Vs Pasari Multi Projects Pvt. Ltd.**, as reported in **MANU/NL/0531/2024**, while dealing with an aspect of delay in

refiling has observed that, when there happens to be an inordinate non-acceptable delay in refiling the Appeal which reflects lack of diligence or common prudence, in that eventuality it is rather the responsibility of the Appellant who seeks the benefit of condonation of delay in refiling who has to explain the delay with its logical reason. And for the purposes of drawing a distinction, the Principal Bench had observed in its para – 24 as under, which is extracted hereunder:-

“24. The NCLAT Rules 2016 itself contemplates communication of defects and the removal of the defects in the Appeal. Rule 26, sub-rule (4) further empowers the Registrar in appropriate case, to decline to register the Appeal or filing of any documents. Thus, power is vested with the Registrar to decline to register Appeal when defects are not cured. The procedure for clearing the defects, empowers the Registrar to grant further time for clearing the defects, itself contemplate that defective Appeal filed by the Appellant is permitted to be cured and in event the defects are not cured, the Appeal can be refused to be registered. But when defects are cured and the Appeal is registered, the date of refiling of the Appeal after curing the defects, cannot be treated to be the fresh date of filing of the Appeal for computation of limitation. In the present case, the Appeal having been e-filed on 25.09.2023. i.e. within 30 days from passing of the impugned order dated 28.08.2023. the Appeal cannot be held to be barred by time and the submission advanced by Shri Sanjeev Sen, the Appeal when it was refiled after curing the defects, i.e., 16.01.2024, may be treated as date of filing,

cannot be accepted. The date of refiling and date of filing are two different clear from statutory scheme.”

18) The computation of limitation in refiling has had to be determined on the touch stone of facts and circumstances of each individual case as it engages consideration in a particular appeal and that too, in the context of the reason assigned to satisfy the grounds of sufficiency of cause, which has to be read in corelation to the number of days of delay which is being sought to be condoned, the relevant para – 30 of Innovators Cleantech (Supra), is extracted hereunder: -

“30. In view of the above discussions, we are satisfied that the Appeal e-filed by the Appellant was within the period of limitation and the Appellant has given sufficient cause for condoning the delay of 86 days in refiling of the Appeal. We, thus, are satisfied that order dated 25.01.2024 passed by this Tribunal, condoning the delay of 86 days in refiling of the Appeal, does not warrant any interference. Further, 06.02.2024 was the date, on which notices were issued. The present is a case where only notices were issued on 06.02.2024. The Applicant/ Respondent himself in the Application has submitted that copy of the Appeal on 03.01.2024 was served on one of the Directors. In view of the above, both the IA Nos.1622 & 1623 of 2024 are dismissed.”

19) Even this Appellate Tribunal had an opportunity to deal with issue, where the NCLAT Bench of Chennai, in its para – 5, in the matter of **Jojo**

Joeshph & Ors. V. Vajra Creations Pvt. Ltd., had held that the condonation of delay in re-presenting the Appeal though it is exclusively within the domain of the Tribunal, but when from records reveals that despite of the aforesaid fact, the reasonableness of the delay is an aspect, which has to be tested based upon the ground which has been taken by the Appellant for the purposes of seeking condonation of delay in refiling. In the judgement rendered by the Principal Bench in the matters of **Adisri Commercial Pvt. Ltd. V. RBI and Anr.** in its para – 9, while referring to the judgement of V Nagarajan v. SKS Ispat and extracting its implication in the context of para – 25, which has been determined in the light of the judgement of the Honourable Apex Court in *Ebix Singapore Pvt. Ltd. v. Committee of Creditors, Educomp Solutions* as it was propounded that the timeline in any proceedings under the I & B Code, 2016, plays a very important role and the courts which is dealing with the proceedings under the I & B Code, 2016, has had to proceed with caution that, any element of intended delay has to be curbed to upkeep the object of the Code and its prescribed framework and the necessity and its object for which it has been legislated. In the said case, the Honourable Apex Court has observed that the grounds taken for seeking condonation of delay has had to appear to be logical and reasonable to normal human prudence, which could be readily accepted to be genuine and not artificially carved out to seek the benefit of condonation of delay. The

Principal Bench in the matters of **CA Ramachandra Dallaram Choudhary V. Adani Infrastructure & Developers Pvt. Ltd.** as rendered in IA No. 8709/2024, in **Company Appeal (AT) (Ins) No. 2316/2024**, the three member bench in its para – 19 has observed that aspect of delay in refiling of the appeal, has to be construed in the context of the language and reasons intended to be used in the application for seeking condonation of delay and it has not to be casually granted without there being a sufficiency of reasons acceptable to common human prudence, to the proceedings and that the delay in refiling cannot be condoned on frivolous grounds Para-19 of the said judgement is extracted hereunder:-

“19 Seen against this backdrop and the discussion in the foregoing paragraphs, we find that the delay in refiling by nearly four months has been occasioned by rather perfunctory reasons. The Applicant is found to have remained nonchalant and callous about the need to correct the defects pointed out in the Appeal Petition by the NCLAT Registry in a timely manner. In such circumstances, allowing refiling delay condonation on such frivolous grounds would be an anathema to the timeliness and integrity of the liquidation process and therefore does not commend us.”

20) The basic element which needs to be kept in mind for considering the aspect of condonation of delay in refiling, and which has to be diligently considered by the Tribunals, will be that, time period in proceedings under I

& B Code, 2016, always plays a very pivotal role in deciding the proceedings, which are to be decided within a time limit which have been carved out under the provisions of the I & B Code. Therefore, explanation of the delay has had to be in such a manner that, it would stand the test of genuineness by virtue of application of a common human prudence. All these elements, as far as the respective applications are concerned, are missing and the reasons given for seeking condonation of delay do not satisfy the test of reasonableness as rendered by the judgement of Honourable Apex Court, as well as the Principal Bench of the NCLAT Delhi, where it has been held that an inordinate delay in preferring the Appeal, particularly in the context of refiling, though it is to be tested on a different pedestal, since the provisions being held to be directory in nature, but it cannot be casually granted on the basis of the non-existing, indefensible grounds or which has been professionally advised to be formulated lacking reasonableness. Here in the instant case, since the delay is of 209 days and 212 days respectively, which is too long a period to be condoned without there being any acceptable plausible explanation, this Appellate Tribunal is not inclined to condone the delay of 209 and 212 days respectively, as it has been shown to have chanced in preferring the Company Appeal. Thus, the delay application in refiling i.e., IA No. 353/2025 in CA (AT) (CH) (Ins) No. 131/2025, and delay in refiling

application being IA No. 360/2025 in CA (AT) (CH) (Ins) No. 133/2025, lacks merit and the same is accordingly dismissed.

21) Consequent to it, the Appeals too would stand dismissed on account of the failure on part of the Appellant to satisfactorily explain the inordinate delay in refiling the Appeal. Hence the Appeals are dismissed.

22) All pending Interlocutory Applications would be treated to have been closed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

28.04.2025
RO/MS/RS