

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT)(Insolvency) No. 25 of 2023

IN THE MATTER OF:

IL & FS Financial Services Ltd.

... Appellant

Versus

Empower India Ltd.

...Respondent

Present:

For Appellant : Mr. Akshat Hansaria, Mr. Tanmay Arora, Advocates

**For Respondent : Mr. Amar Vivek and Mr. Abhinav Tyagi, Advocates
for Respondent.**

O R D E R

29.03.2023: I.A. No. 249 of 2023

This is an Application praying for condonation of delay in filing appeal.

2. This appeal is filed against an order dated 14.10.2022 passed by the Adjudicating Authority (NCLT, Mumbai) in C.P. No. 541/IBC/MB/2020. The Appellant's case is that after the order was passed, he immediately applied for certified copy of the impugned order on 02.11.2022. Along with the application, document no. 1 has been filed which indicates that certified copy was applied on 02.11.2022. Learned Counsel for the Applicant/Appellant has submitted that the copy of the order was uploaded on 15.11.2022. His argument is that he could not have filed the appeal prior to that.

3. We have considered the submissions of the Appellants and perused the records. In the present case impugned order was passed on 14.10.2022. 30 days' limitation was till 14.11.2022 and giving the benefit of 13 days in

uploading the impugned order during which the certified copy of the order was under preparation, the appeal could have been filed on 27.11.2022.

4. This appeal has been e-filed on 14.12.2022 and physical copy was filed on 15.12.2022. The appeal has been filed beyond 15 days' delay. Under Section 61 of IBC, the power to condone delay vested with this Appellate Tribunal is 15 days only. When the delay is beyond 15 days, the Appellate Tribunal cannot exercise its jurisdiction to condone delay.

5. Learned Counsel for the Appellant placed reliance on a judgment of Chennai Bench of this Tribunal in Company Appeal(AT)(CH)(Ins) No. 337 of 2022 decided on 24.11.2022 in the matter "**M.K. Resely and Ors. Vs. Union Bank of India and Ors.**" wherein learned Counsel for the Appellant has relied on paragraph-36 which has the following facts:

..

"36. In view of the fact, that the 'Petitioners'/'Appellants have indulged in 'Bona fide Litigious Activity', in preferring the W.P. No. 2832/2022 and W.A. No.537/2022, before the Hon'ble High Court of Kerala, this 'Tribunal', by construing the ingredients of Section 14 of the 'Limitation Act' 1963, in a liberal manner and by applying 'Equity', permits the exclusion of period from '25.01.2022 till 22.06.2022' ('147 days'), in computing the 'Period of Limitation', and consequently 'disposes of' the IA/990/2022, without cost."

..

6. When we look into the judgment of Chennai Bench of this Tribunal, it appears that Tribunal by giving benefit of Section 14 of the Limitation Act, has in a liberal manner, treated the appeal within time.

7. The present is not a case where there is any case for claiming benefit of Section 14 of the Limitation Act. Hence, the said judgment has no application in the present case.

8. In view of the aforesaid, we do not find any ground to condone delay beyond 15 days. Application for condonation of delay is dismissed. Consequently, the appeal stands dismissed.

**[Justice Ashok Bhushan]
Chairperson**

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

akc/nn