

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Restoration Appeal No. 09 of 2017
IN
Company Appeal (AT) (Insolvency) No. 283 of 2017

IN THE MATTER OF:

India Cement Capital Ltd.

...Appellant

Versus

**Jitendra Kumar Jain,
(Insolvency Professional)**

...Respondent

Present:

For Appellant: Shri Kaustubh Bhardwaj, Advocate

O R D E R

13.12.2017 The application for restoration has been filed on behalf of the appellant on the ground that the counsel for the appellant was not present on the 27th November, 2017 for the reasons mentioned therein. Though we find that a valid ground has been shown but as the appeal was dismissed, both on the count of non-appearance and merit, it is not desirable to restore the appeal.

In fact on 27th November, 2017, this Appellate Tribunal noticed that a defective appeal has been preferred by the appellant – ‘India Cement Capital Ltd.’, under Section 61 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the ‘I&B Code’) against a letter sent in mailbox on 17th October, 2017, which is not an order passed by the Adjudicating Authority (National Company Law Tribunal). Such being the position, the Appellate Tribunal held

that the appeal is not maintainable under Section 61 of the I &B Code against a notice/letter of information dated 17th October, 2017.

For the reasons aforesaid, the restoration application is dismissed.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

/ns/uk