



3. As per sub-section (3) of Section 421 of the Companies Act, 2013, every appeal under sub-section (1) of Section 421 is required to be filed within a period of 45 days from the date on which a copy of the order of the Tribunal is made available. The Appellate Tribunal has been empowered to condone the delay, even after the expiry of this period of 45 days, but within a further period not exceeding 45 days, i.e. within 90 days from the date of receipt of copy of the order, which reads as follows :

**“Sec. 421. Appeal from orders of Tribunal.—**

*(1) Any person aggrieved by an order of the Tribunal may prefer an appeal to the Appellate Tribunal.*

*(2) No appeal shall lie to the Appellate Tribunal from an order made by the Tribunal with the consent of parties.*

*(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order of the Tribunal is made available to the person aggrieved and shall be in such form, and accompanied by such fees, as may be prescribed:*

*Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period*

*of forty-five days from the date aforesaid, but within a further period not exceeding forty-five days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period.”*

4. Learned counsel for the appellant referred to Section 433 of the Companies Act, 2013, as quoted below, whereby Limitation Act, 1963 has been made applicable as far as practicable and submitted that as per Section 29(3) of the Limitation Act, 1963 delay can be condoned. The said provision reads as follows:

**“Sec. 433. Limitation.** – *The provisions of the Limitation Act, 1963 shall, as far as may be, apply to proceedings or appeals before the Tribunal or the Appellate Tribunal, as the case may be.”*

5. However, the aforesaid submission made by learned counsel for the appellant cannot be accepted, as provisions of Limitation Act, 1963, can be applied, only if it can be applicable. There being period of 45 days having prescribed under Section 421(3) to the Appellate Tribunal to condone the delay, the Appellate Tribunal has no jurisdiction to condone the delay beyond the said period.

6. For the reasons aforesaid, the application for condonation of delay is rejected. In the result, the appeal is dismissed being barred by limitation. However, in the facts and circumstances of the case, there shall be no order as to costs.

[ Justice S.J. Mukhopadhaya ]  
Chairperson

[ Balvinder Singh ]  
Member (Technical)