

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Comp. App. (AT) (Insolvency) No. 895 of 2020

IN THE MATTER OF:

Terra Infra Development Ltd.

...Appellant

Versus

KMC Constructions Ltd.

...Respondents

Present:

For Appellant : Mr. Amit Keswani and Mr. Rahul Pandey, Advocates

For Respondents: Mr. Mithun Shashank, Advocate

ORDER
(Through Virtual Mode)

16.10.2020 Heard learned counsel for the parties.

This appeal arises out of order dated 6th December, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Hyderabad Bench, Hyderabad dismissing the CP (IB) 441/9/HDB/2018 filed under Section 9 of the 'I&B Code' by the Appellant claiming to be 'Operational Creditor' on the ground that there was pre-existence of dispute and the claim of petitioner was barred by limitation. The free certified copy of the impugned order has been provided to the Appellant on 18th December, 2019 whereas the instant appeal has been preferred on 17th September, 2020. Even after excluding the lockdown period commencing from 23rd March, 2020, in terms of the *suo-moto* order passed by this Appellate Tribunal, it appears that the appeal has been preferred well beyond the extended period of 45 days as provided under Section 61(2) of the 'I&B Code'. The appeal is hopelessly time barred and this Appellate Tribunal lacks jurisdiction to entertain

the same. The prayer for condonation of delay of 189 days in preferring the appeal not being permissible within the ambit of Section 61(2) of the 'I&B Code' is accordingly rejected.

Since the application for condonation of delay has been rejected, the instant appeal is also dismissed.

**[Justice Bansi Lal Bhat]
Acting Chairperson)**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

**[Shreesha Merla]
Member (Technical)**

/ns/gc/