

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Miscellaneous Application No. 08 of 2020**

**In**

**Company Appeal (AT) (Ins) No. 499 of 2019**

**IN THE MATTER OF:**

**Harkirat S. Bedi**  
**10<sup>th</sup> Floor, Delta Tower,**  
**Sigma Soft- Tech Park,**  
**7, Whitefield Main Road,**  
**Bangalore- 560 066**

**....Applicant/Original  
Appellant**

**Vs.**

**The Oriental Bank of Commerce**  
**RBL Cluster No.-92/95**  
**HJS Chambers,**  
**Richmond Road,**  
**Bangalore- 560025**  
**Also at**  
**E-Block**  
**Connaught Place,**  
**New Delhi- 110001**

**....Respondent**

**Present:**

**For Appellant:           Mr. Sudhir Kumar Sharma, Advocate.**

**For Respondent:       Mr. S.L. Gupta and Mr. Vipin Datta, Advocates.**

**ORDER**  
**(Virtual Mode)**

**01.04.2021:**       Heard Learned Counsel for the Applicant.

This Application has been filed by the Applicant under Section 420(2) of the Companies Act, 2013 read with the Rule 11 of NCLAT (National Company Law Appellate Tribunal) Rules, 2016, for review of Orders dated 08.05.2019 passed by this Tribunal in the Company Appeal (AT) (Ins) No. 499 of 2019.

By the said Order this Tribunal had dismissed the Appeal filed by the Applicant against the admission Order under Section 7 of the Insolvency and Bankruptcy Code (IBC in short), 2016 in which Order had been passed

by the Adjudicating Authority (National Company Law Tribunal, Bengaluru Bench). Thus the Appeal had come up.

Learned Counsel for the Applicant submits that under Section 420 sub clause (2) this Tribunal can rectify mistake apparent on the record.

Learned Counsel refers to the Appeal which was filed and Para 9.19 in that Appeal which stated that Petition under Section 7 was barred by Limitation.

Learned Counsel submits that when the Appeal was disposed of by this Tribunal there was no whisper about the ground of Limitation the Appellant had taken.

Learned Counsel submits that the present Application shows that mistake is apparent on the face of record and Judgment dated 08.05.2019 is required to be recalled and question of Limitation needs to be decided.

The Learned Counsel for the Respondent on the other hand submits that he has sufficient material from the record itself to show that the Application filed under Section 7 of IBC was within Limitation.

We have gone through the matter. At the time of the arguments in Appeal the issues which were raised were dealt with and decided. If the Applicant was aggrieved, he had the option of going in Appeal to the Hon'ble Supreme Court under Section 62 of IBC. However, it is stated that no Appeal was filed. As no Appeal was filed, Order dated 08.05.2019 of this Tribunal against admission Order under Section 7 of IBC, became final.

It is stated that the present CIRP has reached the stage of liquidation. It is stated that against the liquidation Order passed, there was an Appeal filed and even that was rejected and the matter has now been carried over to the Hon'ble Supreme Court.

Limitation being mixed question of law and fact involved, even if the ground was taken in the Appeal but if it was not taken up when the matter came up for hearing before this Tribunal and impugned order was passed, subsequently, it cannot be raised. We do not have power of review as such and under Section 420(2) of Companies Act, limited scope is there. In our view, once Judgment/Order was passed on 08.05.2019, we become functus officio and it does not appear to be appropriate for us to reopen debatable issues.

We decline to entertain this Application.

The Application is dismissed.

**[Justice A.I.S. Cheema]**  
**Member (Judicial)**

**[Justice Anant Bijay Singh]**  
**Member (Judicial)**

**[Kanthi Narahari]**  
**Member (Technical)**

*sr/md*