

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Ins) No.199 of 2020

IN THE MATTER OF:

Amrender Thakur & Ors.

...Appellants

Versus

M/s. AVJ Developers (India) Pvt. Ltd. & Ors.

...Respondents

For Appellants: **Shri Abhishek Amritanshu, Shri Hassan Zubair Waris and Shri Deepak Mani Tripathi, Advocates**

For Respondents: **None**

O R D E R

11.02.2020 Heard Advocate- Shri Abhishek Amritanshu for the Appellant. This Appeal has been filed against Impugned Order dated 21st October, 2019 passed in CP No.IB-654(PB)/2019, by the Appellants. It is stated that Appellants are home buyers. By the said Order, the Application under Section 7 of Insolvency and Bankruptcy Code, 2016 (IBC – in short) was admitted by the Adjudicating Authority (National Company Law Tribunal, New Delhi Principal Bench). This Appeal was presented on 21st January, 2020 which is 3 months after the passing of the Impugned Order. In the Appeal, it is vaguely stated regarding limitation that the Appeal is within period specified in Sub-Section (2) of Section 61 of IBC. Sub-Section (2) of Section 61 of IBC reads as under:-

“(2) Every appeal under sub-section (1) shall be filed within thirty days before the National Company Law Appellate Tribunal:

Provided that the National Company Law Appellate Tribunal may allow an appeal to be filed after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal but such period shall not exceed fifteen days.”

2. Clearly the Appeal has to be filed within 30 days and the power of this Tribunal to condone the delay for sufficient cause is only that of 15 days.

3. The learned Counsel for the Appellants states that earlier the Director and shareholders had filed Company Appeal (AT) (Insolvency) No.1137/2019. The Counsel states that in that Appeal, another group of home buyers were Interveners. It is stated that the said Appeal was not pursued and got dismissed for non-prosecution. Thus, the Counsel states that this Appeal got delayed.

4. Although the learned counsel stated that this Appeal is by the home buyers, the Affidavit of Appellant No.1 - Amrender Thakur (Page 53 - 54) claims that he is shareholder of the Corporate Debtor. The Counsel now is saying that it is typing error but we need not go into the same.

5. The Counsel is raising various grievances against the IRP (Insolvency Resolution Professional) and actions being taken by IRP. We cannot enter into those questions and it is for the Appellants to resort to appropriate remedy before the Adjudicating Authority.

6. Considering provisions of Sub-Section (2) of Section 61, the Appeal is time barred. The Appeal is disposed accordingly.

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

(Justice A.B. Singh)
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

/rs/md