

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

**Company Appeal (AT) (Insolvency) No. 1036 of 2020**

**IN THE MATTER OF:**

**Sarda Agro Oils Ltd.**  
**Through its Director Mr. Jagdish Prasad Sarada** **...Appellant**

**Versus**

**Sakuma Exports Ltd.** **...Respondent**

**Present: -**

**For Appellant: Ms. Tanu Priya Gupta, Advocate.**

**For Respondent: Mr. Amit Shanker Amist, Mr. Mithila Jain, Advocates.**

**O R D E R**  
**(Virtual Mode)**

**23.03.2021** I.A. No. 2799 of 2020 has been filed in Company Appeal (AT) (Insolvency) No. 1036 of 2020 on 12.11.2020.

2. Heard Learned Counsel for the Appellant and Respondent in I.A. No. 2799 of 2020.

3. Learned Counsel for the Appellant submits that the impugned order dated 15.10.2019 passed by NCLT, Mumbai Bench in C.P. (IB) No. 4428/NCLT/MB/2018 filed by the Appellant under Section 9 of the Insolvency and Bankruptcy Code, 2016 was rejected. Certified copy of the order has been supplied to Learned Counsel for the Appellant on 07.02.2020 and instant Appeal was filed on 12.11.2020.

4. Learned Counsel for the Appellant further submits that in terms of the provision of Section 61 of the IBC the Appeal shall be filed within 30 days before the NCLAT.

5. It is further provided that NCLAT may allow an appeal to be filed after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for not filing the Appeal but such period shall not exceed 15 days.

6. In the instant case, this Appeal ought to have been filed on 24<sup>th</sup> March, 2020 to be on limitation.

7. This court takes judicial notes of the facts that the Hon'ble Supreme Court passed order on 08.03.2021 while disposing Suo Moto Writ Petition (Civil) No. 3 of 2020 in paragraph 2 which reads as under:

“2. We have considered the suggestions of the learned Attorney General for India regarding the future course of action. We deem it appropriate to issue the following directions: -

1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.

2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.

3. The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for

instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

4. The Government of India shall amend the guidelines for containment zones, to state.

“Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements.”

8. In view of the aforesaid direction of the Hon’ble Supreme Court, the delay in filing the Appeal is hereby condoned. I.A. NO. 2799 of 2020 is allowed. The Appeal is admitted.

9. List the Appeal for further hearing ‘For Admission (After Notice)’ on **22<sup>nd</sup> April, 2021.**

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

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

R. N./ nn./