

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) (Insolvency) No. 291 of 2017

IN THE MATTER OF:

Nityanand Singh and Co.

...Appellant

Versus

Ferrous Infrastructure Pvt. Ltd.

...Respondent

Present:

For Appellant : Shri Naresh Kumar, Advocate

O R D E R

29.11.2017 This appeal has been preferred by the appellant (Operational Creditor) against order dated 28th September, 2017 whereby and whereunder the application preferred under Section 9 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'I&B Code') has been rejected. The petition of condonation of delay has also been filed.

On hearing the learned counsel for the appellant and perusal of the order, we find that the order dated 28th September, 2017 was passed by the Adjudicating Authority in the presence of the appellant – Mr. Nityanand Singh, Company Secretary, who appeared in person. However, he applied for certified copy of the impugned order after more than thirty days on 30th October, 2017, which was supplied to him on the same day i.e. 30th October, 2017. The delay in making such application has not been explained. The appeal, after removal of the defects, was filed on 27th November, 2017. Thus, we find that the appeal

has been preferred after sixty days from the date of the order i.e. 28th September, 2017.

An appeal can be preferred by an aggrieved person under sub-section (1) and sub-section (2) of Section 61 of the I & B Code. As per sub-section (2) of Section 61 such appeal is to be filed within thirty days. As per proviso thereto, the Appellate Tribunal has power to condone the delay, if it is satisfied that there was sufficient cause for not filing the appeal but such period cannot exceed fifteen days from beyond the period of thirty days. In this case as the appeal has been preferred after 60 days of the impugned order, we hold that Appellate Tribunal has no jurisdiction to condone the delay.

For the reasons aforesaid, we dismiss the application for condonation of delay. In the result the appeal is dismissed being barred of limitation. No cost.

[Justice S.J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member(Judicial)

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