

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

I.A. No. 1386 of 2020

With

Company Appeal(AT) (Insolvency) No. 541 of 2020

IN THE MATTER OF:

**Regional Provident Fund Commissioner-II,
Employees' Provident Fund Organisation,
Regional Office: Amar Complex, Hijuguri,
Tinsukia- 786 125 (Assam)**

...Appellant

Vs

1. Mr. Bijay Murmuria

**C/o Sumedha Management Solutions Private Limited,
226/1 A.J.C. Bose Road,
Trinity Tower, Suit No: 3G,
Kolkata-700 020**

Also at:

**C/o Sumedha Management Solutions Private Limited,
6A Geetanjali, 8B Middleton Street,
Kolkata 700 071**

**..Respondent
No. 1**

**2. M/s SREI Multiple Asset Investment Trust,
"Vishwakarma", 86 C, Topsia Road (South),
Kolkata- 700 046**

**..Respondent
No. 2**

Present:

For Appellant: Mr. Manish Dhir, Advocate

**For Respondents: Mr. Bijay Murmuria, Advocate for Respondent No.
1
Mr. Sanjay Bhatt and Niharika Sharma, Advocates
for Respondent No. 2.**

O R D E R

(Through: Virtual Mode)

10.08.2020 I.A. No. 1386 of 2020 in Company Appeal(AT)(Insolvency) No. 541 of 2020 has been filed by the Appellant- Regional Provident Fund Commissioner –II, Tinsukia seeking condonation of delay of 22 days calculating

from the date of receipt of Certified Copy of the Impugned Order and it is stated that there is a delay of 436 days in preferring the Appeal if the date of Impugned Order is seen.

2. Impugned Order dated 07.12.2018 was passed by the Adjudicating Authority (National Company Law Tribunal, Guwahati) in I.A. No. 73 of 2018 in C.P. No. (IB) 02/GB/2018. It is stated that by such Order, Resolution Plan was approved. The Application states that the Appellant became aware of the order of NCLT, Guwahati on 02.07.2019 through Resolution Professional and thereafter he had forwarded the copy of the Impugned Order to the Panel Advocate to seek legal opinion and applied for certified copy only on 24.01.2020 which was issued on the same day. Limitation of 30 days expired on 24.02.2020 and the Appeal was filed on 17.03.2020. Thus, I.A. No. 1386 of 2020 was filed to condone the delay of 22 days.

3. The List of Dates and Events shows that on 11.12.2018, the Appellant received communication from Company Secretary of the Corporate Debtor stating that NCLT Guwahati, vide its order dated 07.12.2018, had approved the Resolution Plan submitted by Respondent No. 2. Thus, the Appellant had knowledge since 11.12.2018 of the Impugned Order but the Appellant is presenting the Appeal only on 18.03.2020 as can be seen from the records of this Tribunal.

4. Section 61, sub-sections 1 & 2 of Insolvency and Bankruptcy Code reads as under:

...

“61. Appeals and Appellate Authority. –

(1) Notwithstanding anything to the contrary contained under the Companies Act 2013 (18 of 2013), any person aggrieved by the order of the Adjudicating Authority under this part may prefer an appeal to the National Company Law Appellate Tribunal.

(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 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.”

...

5. Considering above provision, we find that beyond the period of appeal of 30 days, the power of this Tribunal to allow appeal to be filed after expiry of said 30 days, shall not exceed 15 days. Looking into the provision, we cannot condone delay beyond 15 days prescribed after the expiry of 30 days of Appeal.

6. Learned Counsel for the Appellant states that the Appellant has very good case with regard to the case of the Provident Fund. However, the Appeal is time barred and for lack of Jurisdiction, we cannot go into the Appeal.

Appeal is dismissed as time barred.

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

[Justice Anant Bijay Singh]
Member (Judicial)

(Kanthi Narahari)
Member(Technical)

Akc/Mn