

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

**Company Appeal (AT) (Insolvency) No.69 of 2018**

**IN THE MATTER OF:**

**Kusum Products Limited**

**...Appellant**

**Vs**

**Union of India**

**...Respondent**

**Present: For Appellants: - Ms. Purti Marwaha, Advocate.**

**ORDER**

**03.05.2018**— The Appellant Company brought a Scheme of revival plan from erstwhile ‘Board for Industrial and Financial Reconstruction’ (hereinafter referred to as “BIFR”). Subsequently, the Company sought for extension for the period for compliance of the Scheme.

2. In the meantime, ‘Sick Industrial Companies (Special Provisions) Act, 1985’ (hereinafter referred to as “SICA Act, 1985”) was repealed by ‘Sick Industrial Companies (Special Provisions) Repeal Act, 2003’ (hereinafter referred to as “SICA Repeal Act, 2003”). In absence of any provision for extension of period for compliance of the Scheme, the Appellant preferred an application under Rule 11 of the National Company Law Tribunal Rules, 2016 (hereinafter referred to as “NCLAT Rules, 2016”) read with ‘SICA Repeal Act, 2003’ read with the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “I&B Code”) for extension of statutory time.

3. The Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata, rejected the application in absence of any

provision to grant extension of time for compliance of the Scheme framed by the BIFR under 'SICA Act, 1985'.

4. Learned counsel appearing on behalf of the Appellant submitted that sub-section 4(b) of the 'SICA Repeal Act, 2003' has been amended and substituted by the Eighth Schedule of the 'I&B Code' under Section 252 of the said Code. However, the said provision is not applicable to case of the Appellant as it relates to initiation of 'Corporate Insolvency Resolution Process' under Section 10 by the Company and not for extension of time of Scheme of revival plan.

5. As there is no provision under Rule 11 of the NCLT Rules, 2016 or 'SICA Repeal Act, 2003' and 'I&B Code' to grant such extension of time, we hold that the Adjudicating Authority rightly rejected the application being not maintainable. We accordingly dismiss the appeal.

However, the order passed by the Adjudicating Authority or this Appellate Tribunal shall not come in the way of the Appellant Company to move before a court of competent jurisdiction for appropriate relief. No cost.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Justice Bansi Lal Bhat)  
Member(Judicial)

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