

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency)No. 765 of 2019

IN THE MATTER OF:

Mr. Hemang Phophalia

.....Appellant

Vs.

**The Greater Bombay
Co-Operative Bank Ltd. & Anr.**

.....Respondents

Present :

**For Appellant: Mr. P.V. Dinesh, Mr. R.S. Lakshman, Mr. Ashwini
Kumar Singh, Advocates**

Mr. Sumit, Advocate for IRP

For Respondents: Mr. Shridhar, Advocate

O R D E R

29.07.2019 - This appeal has been preferred by the Appellant – ‘Hemang Phophalia’ after delay of six days. Having heard learned counsel for the Appellant and being satisfied with the ground, delay of six days in filing the appeal is hereby condoned. I.A. No. 2313 of 2019 stands disposed of.

2. On merit, learned counsel for the Appellant submits that the name of ‘M/s. Penguin Umbrella Works Private Limited’ (‘Corporate Debtor’) was struck off from the register, maintained by the ‘Registrar of Companies’, therefore, the application u/s 7 was not maintainable. The other ground taken is that the application u/s 7 was barred by limitation.

...contd.

3. However, we intend to hear on the question of locus-standi of the Appellant to find out whether the Appellant can claim to be the aggrieved person as it is informed that the Appellant is no more a Shareholder or Director, of the Company struck off from the 'Register of Companies'.

4. If, we are satisfied that the Appellant is aggrieved person, then we will go in merits to find out whether application u/s 7 was maintainable and if so, whether it was barred by limitation.

5. Appellant is allowed to file additional affidavit about his locus-standi within a week.

6. Respondent may file their reply-affidavit along with Vakalatnama within a week.

7. Rejoinder, if any, may be filed by the Appellant within a week thereafter.

Post the case for 'orders' on **22nd August, 2019.**

The appeal may be heard on merits on the next date.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

ss/sk