

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

**Un-numbered Company Appeal (AT) No. \_\_\_/2018**  
**(F.No.11/05/2018/ NCLAT/UR/376)**

**In the matter of:**

Aditya Birla Finance Ltd. .... Appellant

Versus

Mr. Kapil Shah & Ors. .... Respondents

Appearance: Shri Akhil Sachar, Advocate for the Appellant.

**22.05.2018**

The aforesaid Appeal under Section 421 of the Companies Act, 2013 (hereinafter referred to as the Act) is against the orders dated 20.03.2018, 01.02.2018, 19.12.2017 and 09.11.2017 in C.P. No.548/MAH/2017 of the Hon'ble NCLT, Mumbai Bench.

2. The Appeal is seen presented under Rule 22 on 11.05.2018. The Appeal when scrutinised on 14.05.2018 was found to be defective and hence the Registry made an attempt to inform the Counsel over mobile, which attempt was unsuccessful. Thereafter, the Appellant took back the defective Appeal on 15.05.2018 and presented the same on 18.05.2018 contending that all the defects raised have been rectified. However, it is reported that defect no.3 referred to in the defects sheet has not been cured and hence the matter has been placed before me for necessary orders.

3. Defect no.3 raised is regarding deficit court fees. Orders dated 20.03.2018, 01.02.2018, 19.12.2017 and 09.11.2017 in C.P. No.548/MAH/2017 have been challenged. However, only ₹5,000/- has been paid as court fee and therefore, the Registry directed the Appellant to pay the deficit court fee of ₹15,000/-, i.e., @ ₹5,000/- for each order.

4. Today none appeared for the Appellant.

5. An endorsement is seen made in the defects sheet which reads thus: – “*We undertake that we are challenging order dated 20.03.2018 the rest of the orders dated 09.11.2017, 19.12.2017 and 01.02.2018 are previous orders of the order challenged. Thus, we are challenging and seeking setting aside of only one order dt. 20.03.2018.*” It is not clear as to who has made this endorsement as there is neither the name nor the signature of the person who has made the said endorsement.

6. A reading of the Synopsis and relief (a) sought in the Appeal makes it clear that all the aforementioned orders are being challenged. Therefore, the Registry was right in raising the defect relating to deficit court fees. Hence, the Appellant is directed to remit the deficit court fees of ₹15,000/- by 24.05.2018.

7. Apart from the aforesaid defect, defect no.6 raised in the defects sheet relating to non-filing of application for condonation of delay is also not seen rectified. Certified copy of orders dated 09.11.2017 and 19.12.2017 are seen issued on 06.02.2018. Therefore, the period of 45 days for filing an Appeal against the said two orders starting from 07.02.2018 expired on 23.03.2018. Likewise, the certified copy of the order dated 01.02.2018 is seen issued on 05.03.2018. Therefore, the period of 45 days computed from 06.03.2018 expired on 19.04.2018. Hence, for all these three orders separate applications for condonation of delay with necessary court fees of ₹1,000/- per application has to be filed.

8. The Appellant is directed to cure the aforesaid defects by 24.05.2018. The Appeal be listed before the Hon’ble Appellate Tribunal on 25.05.2018, irrespective of the fact as to whether the defects are cured or not. In case, the defects are not cured, the matter be listed under defective Appeals.

(C.S. Sudha)  
Registrar

9. Before the order was signed and uploaded, the learned Counsel for the Appellant appeared and made his submissions. According to him, he is only challenging the last order i.e., the order dated 20.03.2018 and so the Appeal has been

filed well within the period of limitation and also that there is no deficiency in the court fee paid.

10. For the reasons already stated hereinabove, I disagree with the submissions made by the learned Counsel for the Appellant. Hence, I reiterate the direction given for curing the defects. The learned Counsel for the Appellant requests that the matter be listed before the Hon'ble Appellate Tribunal on 24.05.2018. Therefore, the Appellant is directed to rectify the defects hereinabove pointed out by 23.05.2018.

11. The matter be listed before the Hon'ble Appellate Tribunal on 24.05.2018 irrespective of the fact as to whether the defects pointed out are cured or not.

(C.S. Sudha)  
Registrar