

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

**I.A. No. 919 / 2018**

**IN**

**Company Appeal (AT) No. 217 of 2018**

**AND**

**I.A. No. 1007 / 2018**

**IN**

**Company Appeal (AT) No. 226 of 2018**

**IN THE MATTER OF:**

**Elegant Industries Pvt. Ltd.**

**...Appellant**

**Versus**

**Shishir B. Nevatia & Ors.**

**...Respondents**

**Present:**

**For Appellant :**           **Dr. Surender Singh Hooda and Mr. Aditya Hooda,  
Advocates**

**For Respondents :**       **Mr. Shikhil Suri, Mr. Shiv Kumar Suri, Ms. Shilpa  
Saini, Ms. Vinishma Kaul and Ms. Shakshi,  
Advocates**

**ORDER**

**16.07.2018**       These appeals under Section 421 of the Companies Act, 2013 has been preferred by appellant against the common impugned order dated 31<sup>st</sup> January, 2018 along with an application for condonation of delay under sub-section (3) of Section 421 of the Companies Act, 2013 after expiry of the period of forty-five days in preferring the appeal, the Appellate Tribunal has power to condone the delay but not exceeding forty-five days, if it is satisfied that the

appellant prevented by sufficient cause from filing the appeal within the period prescribe.

In the present case, the impugned order was passed on 31<sup>st</sup> January, 2018 and its copy was made available on 17<sup>th</sup> April, 2018. Therefore, the appellant was required to file the appeal by 1<sup>st</sup> June, 2018, but the appeal was filed thereafter on 25<sup>th</sup> June, 2018. Therefore, we find that the appeal was filed after 24 days beyond the prescribed period of 45 days.

Mr. Shikhil Suri, Advocate have appeared on behalf of the respondent. Having heard learned counsel appearing on behalf of the appellant and the learned counsel appearing for the respondent and being satisfied with the grounds shown in the application, the delay of 24 days in preferring the appeal is condoned.

I.A. Nos. 919 and I.A. No. 1007 of 2018 stand disposed of.

We have heard the learned counsel for the parties on the question of imposition of cost on the appellant. From the record, we find that two Miscellaneous Applications were filed by the appellant (Respondent in the Company Petition) challenging the appearance of the legal representative and Vakalatnama filed by them. Such objection was not accepted by the Tribunal and taking into consideration the fact that cross-petitions were pending for the last more than 7 to 8 years, Tribunal imposed cost of Rupees One Lakh each on both the appellant in both Transfer Petitions.

Taking into consideration, the nature of the case and hearing the counsel for the parties, we are of the view that though the objections raised by the appellants may not have any merits, but it was not a case for imposition of cost.

For the said reason. We set aside the impugned order dated 31<sup>st</sup> January, 2018, so far it relates to imposition of cost on both the appellant but with direction to the appellant not to prolong the cases and to co-operate with the Tribunal for early disposal of the petition. The Tribunal may hear the petitions on day-to-day basis if so required and pass appropriate order in accordance with law. Respondents are also directed to co-operate with the Tribunal and not to ask for unnecessary adjournment.

We make it clear that we have not set aside the substantive impugned order dated 31<sup>st</sup> January, 2018, which has been decided on merit. However, the same will not come in the way of the Tribunal while deciding the main petitions. Both the appeals stand disposed of with the aforesaid observations.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice Bansi Lal Bhat ]  
Member (Judicial)

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