

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

**Company Appeal (AT) (Insolvency) No. 69 of 2019**

**IN THE MATTER OF:**

**Kumar Dutta, Proprietor K. D. Trading**

**...Appellant**

**Vs**

**Simplex Infrastructure Ltd.**

**....Respondent**

**Present:**

**For Appellant: Mr. Anirban Kar and Mr. Hemant Daswani,  
Advocates.**

**For Respondent:**

**ORDER**

**22.01.2019:** This appeal has been preferred by Proprietor of 'K. D. Trading' against order dated 23<sup>rd</sup> July, 2018 passed by the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench whereby and whereunder the application under Section 9 preferred by the Appellant for initiation of Corporate Insolvency Resolution Process against 'Simplex Infrastructure Ltd.' has been rejected by detailed judgment.

2. Learned counsel appearing on behalf of the Appellant submits that the Adjudicating Authority had no jurisdiction to decide claim and counter claim. He further submitted that the Adjudicating Authority failed to consider the continuous cause of action which was brought to its notice.

3. On merit, there may be some prima facie case made out for issuance of notice to hear the other side but in view of the fact that impugned order was passed by the Adjudicating Authority on 23<sup>rd</sup> July, 2018 and certified copy was delivered on 24<sup>th</sup> August, 2018 and the appeal having filed on 8<sup>th</sup> January, 2019 i.e. beyond 45 days (30 days period for filing an appeal *plus* 15 days further

period which can be condoned by this Appellate Tribunal), we hold that we have no jurisdiction to condone the delay in terms of Sub-section (2) of Section 61 of the I&B Code. The appeal is dismissed being barred by limitation. No costs.

[Justice S. J. Mukhopadhaya]  
Chairperson

[Justice Bansi Lal Bhat]  
Member (Judicial)

*am/uk*